

Washington, Wednesday, July 20, 1955

TITLE 7-AGRICULTURE

Chapter IX-Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 958-IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.319 Limitation of shipments-(a) Findings. (1) Pursuant to Marketing Agreement No. 97 and Order No. 58 (19 F R. 9368) regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U.S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the area committee for Area No. 3, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments as heremafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the Federal Register (5 U.S. C. 1001 et seq.) in that (i) the time intervening betwen the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient. (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

(b) Order (1) During the period from July 25, 1955, to June 30, 1956, both dates inclusive, no handler shall ship

any potatoes of any variety grown in Area No. 3, unless such potatoes meet the requirements of the U.S. No. 2 or better grade and (i) if they are of the round varieties such potatoes are of a size not less than 1% inches minimum diameter, and (ii) if they are of the long varieties such potatoes are of a size not less than 2 inches minimum diameter or 4 ounces minimum weight. as such terms, grades, and sizes are set forth in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title) including the tolerances set forth therein.

(2) During the effective dates and subject to the requirements set forth in subparagraph (1) of this paragraph, no handler shall ship any lot of any variety of potatoes grown in Area No. 3 if such potatoes are more than "moderately skinned" as such term is defined in the said United States Standards, which means that not more than 10 percent of such potatoes have more than one-half of the skin missing or "feathered". Provided, That not to exceed 100 hundredweight of such potatoes may be handled for any producer without regard to the aforesaid skinning requirement if the handler thereof reports, prior to such handling, the name and address of the producer of such potatoes, and each shipment hereunder is handled as an identifiable entity.

(3) For the purpose of determining who shall be entitled to the exception set forth in subparagraph (2) of this paragraph:

(i) "Producer" means any individual, partnership, corporation, association, landlord-tenant relationship, community property ownership, or any other business unit engaged in the production of potatoes for market; and

(ii) It is intended that each 100 hundredweight exception to the aforesaid skinning requirement shall apply only to the potatoes grown on each farm of a producer.

(4) Terms used in Marketing Agreement No. 97 and Order No. 58 (§§ 958.1 to 958.103; 19 F R. 9368) shall, when used in this section, have the same meaning as when used in said agreement and order. (Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

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Reprint Notice

A reprint of the Federal Register dated April 8, 1955, is now available.

This issue, containing a 57-page indexdigest of Federal laws and regulations relating to the retention of records by the public, is priced at 15 cents per copy.

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Done at Washington, D. C., this 15th day of July 1955, to become effective July 25, 1955.

[SEAL]

S. R. Smith, Director,

Fruit and Vegetable Division.

[F. R. Doc. 55-5884; Filed, July 19, 1955; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 123]

PART 608—RESTRICTED AREAS

ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.41, the Virginia Capes, North Carolina, area (R-73 formerly D-73) published on July 16, 1949 in 14 F. R. 4294, is rescinded.

F R. 4294, is rescinded.
2. In § 608.63, the Desecheo Island,
Puerto Rico, area (R-364 formerly
D-364), amended on December 12, 1951
In 16 F R. 12502, is rescinded.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended: 49 U. S. C. 551)

This amendment shall become effective on July 20, 1955.

[SEAL] F. B. LEE, Administrator of Civil Aeronautics. [F. R. Doc. 55-5857; Filed, July 19, 1955; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6307]

Part 13—Digest of Cease and Desist Orders

PYRAMID BOOKS

Subpart-Misbranding or mislabeling: § 13.1230 Identity; § 13.1265 Old, secondhand, reclaimed or reconstructed product as new. Subpart-Misrepresenting oneself and goods—Goods: § 13.1605 Content; § 13.1655 Identity; § 13.1695 Old, secondhand, reclaimed or reconstructed as new. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1850 Content; § 13.1855 Identity; § 13.1880 Old, used, reclaimed, or reused as unused or new. Subpart-Using misleading name-Goods: § 13.2300 Identity; § 13.2320 Old, secondhand, reconstructed or reused as new. In connection with the offering for sale, sale, and distribution of books in commerce: (1) Offering for sale or selling any abridged copy of a book unless one of the following words, namely, "abridged" "abridgement" "abridgement" "condensed" or "condensation" or any other word or phrase stating with equal clarity that said book is abridged, appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser; and (2) using or substituting a new title for, or in place of, the original title of a reprinted book unless a statement which reveals the original title of the book and that it has been previously published thereunder appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the new title or in another position adapted readily to attract the attention of a prospective purchaser; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist-order, Matthew Huttner et al. t. a. Pyramid Books, New York, N. Y., Docket 6307, June 25, 1955]

In the Matter of Matthew Huttner and Alfred R. Plaine, Copartners Trading Under the Firm Name of Pyramid Books

This proceeding was heard by Earl J. Kolb, hearing examiner, upon the complaint of the Commission which charged respondents with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in violation of the provisions of the Federal

Trade Commission Act, in connection with the sale and distribution of its books without making adequate disclosures that certain of said books were abridgements or that they had been given new titles different from the books of which they were reprints; and upon a stipulation for consent order, which was entered into by respondents with counsel in support of the complaint in lieu of answer, was duly approved by the Director and Assistant Director of the Bureau of Litigation, and expressly provided that the signing thereof was for settlement purposes only and did not constitute an admission by respondents that they had violated the law as alleged in the complaint.

Said stipulation set forth that respondents admitted all the jurisdictional allegations of the complaint and agreed that the record in the matter might be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations, and that all parties expressly waived the filing of answer, a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents might be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said stipulation, respondents further agreed that the order to cease and desist, issued in accordance therewith, should have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, and specifically waived any and all right, power, or privilege to challenge or contest the validity of such order, and it was further provided that said stipulation, together with the complaint, should constitute the entire record in the matter, that the complaint therein might be used in construing the terms of the order issued pursuant to said stipulation, and that said order might be altered, modified, or set aside in the manner prescribed by the statute for orders of the Commission.

Thereafter said hearing examiner made his initial decision in which he set forth the aforesaid matters and his conclusion, in view of his consideration of said stipulation and the order therein contained, that the same provided for appropriate disposition of the proceeding; his acceptance of said stipulation and order, which he made a part of the record; and his findings, in consonance with the terms of said stipulation, that the Commission had jurisdiction of the subject matter of the proceeding and of the respondents named therein, and that the proceeding was in the interest of the public; and his issuance of order to cease and desist.

Thereafter said initial decision, including said order, as announced and decreed by "Decision of the Commission and Order to File Report of Compliance", dated June 24, 1955, became, on June 25, 1955, pursuant to § 3.21 of the Com-

mission's Rules of Practice, the decision of the Commission.

Said order is as follows:

It is ordered, That the respondents Matthew Huttner and Alfred R. Plaine, individually and as copartners trading under the firm name of Pyramid Books or any other trade name, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of books in commerce as "commerce" is befined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling any abridged copy of a book unless one of the following words, namely, "abridged," "abridgement," "condensed" or "condensation," or any other word or phrase stating with equal clarity that said book is abridged, appears in clear conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser.

2. Using or substituting a new title for, or in place of, the original title of a reprinted book unless a statement which reveals the original title of the book and that it has been previously published thereunder appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the new title or in another position adapted readily to attract the attention of a prospective purchaser.

By said "Decision of the Commission" etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 24, 1955.

By the Commission.

[SEAL]

ROBERT M. PARRISH, Secretary.

[F. R. Doc. 55-5870; Filed, July 19, 1955; 8:49 a. m]

[Docket 6316]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

H. FISHER

Subpart—Misbranding or muslabeling: § 13.1190 Composition: Wool Products Labeling Act; § 13.1325 Source or origin: Maker or seller, etc.. Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition: Wool Products Labeling Act; § 13.1900 Source or origin: Wool Products Labeling Act. In connection with the introduction or manufacture for introduction into commerce, or offering for sale, sale, transportation, or distribution in commerce,

of girls' or misses' coats or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool" "reprocessed wool" or "reused wool" as those terms are defined in said Act, misbranding such products by: 1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers included therein; 2. failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner: (a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) such fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool products, of any non-fibrous loading, filling, or adulterating matter; (c) the name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939; and 3. failing to separately set forth on the required stamp, tag, label or other means of identification the character and amount of the constituent fibers appearing in the interlinings of such wool products as provided by Rule 24 of the Rules and Regulations promulgated under said Act (§ 300.24 of this chapter) prohibited, subject to the proviso, however, that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs "(a)" and "(b)" of Section 3 of the Wool Products Labeling Act of 1939; and to the further provision that nothing contained in the order shall be construed as limiting any applicable provisions of said Act or the Rules and Regulations promulgated thereunder.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U. S. C. 45, 68-68c) [Cease and desist order, Henry R. Fisher et al. t. a. H. Fisher, Philadelphia, Pa., Docket 6316, June 25, 1955]

In the Matter of Henry R. Fisher and Isadore Fisher Individuals and Copartners, Trading as H. Fisher

This proceeding was heard by John Lewis, hearing examiner, upon the complaint of the Commission which charged respondents with having violated the Wool Products Labeling Act of 1939, the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, through the misbranding of certain products, including, among other things, girls' or misses' coats, falsely labeled or tagged, as alleged, as containing "35% Wool" and "65% Reprocessed Wool" when in fact they contained 20% wool, 20% reprocessed wool, 56% reused wool, and 4% other fibers; and upon a

stipulation which respondents entered into with counsel supporting the complaint, following the filling of their answer, which provided for the withdrawal of said answer and for the entry of a consent order disposing of all the issues in the proceeding, and which was submitted to said hearing examiner, theretofore duly designated by the Commission, for his consideration in accordance with Rule V of the Commission's Rules of Practice.

Said stipulation set forth that respondents admitted all the jurisdictional allegations of the complaint and agreed that the record in the matter might be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations; that all parties expressly waived a hearing before the hearing examiner or the Commission, and all further and other procedure to which the respondents might be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission: that respondents agreed that the order to cease and desist issued in accordance with said stipulation should have the same force and effect as if made after a full hearing, and specifically waived any and all right, power, or privilege to challenge or contest the validity of said order; and that it was stipulated and agreed that the complaint in the matter might be used in construing the terms of the order provided for in said stipulation.

Thereafter, the proceeding having come on for final consideration by said hearing examiner on the complaint and aforesaid stipulation for consent order, said hearing examiner made his initial decision in which he set forth the aforesaid matters, the answer previously filed by respondents being deemed withdrawn: his conclusion that said stipulation provided for an appropriate disposition of the proceeding; his acceptance of said stipulation, which he ordered filed as a part of the record in the matter; and his findings, for jurisdictional purposes, with respect to said respondents, and the jurisdiction of the Commission over the subject matter of the proceeding and over said respondents; and including his findings that the complaint stated a cause of action against said respondents under the aforesaid acts, and that the proceeding was in the interest of the public; and in which he set forth order to cease and desist.

Thereafter said initial decision, including said order, as announced and decreed by "Decision of the Commission and Order To File Report of Compliance" dated June 24, 1955, became, on June 25, 1955, pursuant to § 3.21 of the Commission's rules of practice, the decision of the Commission.

Said order to cease and desist is as follows:

It is ordered, That the respondents, Henry R. Fisher and Isadore Fisher, individually and as copartners, trading as H. Fisher, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or offering for sale, sale, transportation or

distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of girls' or misses' coats or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool," "reprocessed wool," or "reused wool," as those terms are defined in said Act, do forthwith cease and desist from misbranding such products by

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner.

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) such fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products, of any non-fibrous loading, filling, or adulterating matter:

(c) The name or the registered identification number of the manufarturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

3. Failing to separately set forth on the required stamp, tag, label or other means of identification the character and amount of the constituent fibors appearing in the interlinings of such wool products as provided by § 300.24 of this chapter:

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939: And provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

By said "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered. That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: June 24, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH, Secretary.

[F. R. Doc. 55-5871; Filed, July 19, 1955; 8:49 a. m.]

TITLE 20-EMPLOYEES' BENEFITS

Chapter III-Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Reg. 1, further amended]

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Regulation No. 1, as amended (20 CFR 401.1 et seq.) is further amended to read as follows:

401.1 Prohibition against disclosure.

401.2 Authority for refusal to disclose.

407.3 Information which may be disclosed and to whom.

401.4 Definitions.

401.5 Payment for information in general. 401.6 Payment for information in specific

cases.

AUTHORITY: §§ 401.1 to 401.6 issued under secs. 205, 1102, 49 Stat. 624, 647, as amended; 42 U.S. C. 405, 1302. Interpret or apply sec. 1106, 53 Stat. 1398, 64 Stat. 559; 42 U.S. C. 1306.

§ 401.1 Prohibition against disclosure. No disclosure of any return or portion of a return (including information returns or other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, the Federal Insurance Contributions Act or the Self-Employment Contributions Acts, or under regulations made under authority thereof. which has been transmitted to the Department of Health, Education, and Welfare by the Commissioner of Internal Revenue, or of any file, record, report, or other paper or any information obtained at any time by the Department or by any officer or employee of the Department, or from the Department or any officer or employee thereof by any other person or by any other agency or officer or employee thereof, which in any way relates to, or is necessary to, or is used in or in connection with, the administration of the old-age and survivors insurance program conducted pursuant to title II of the Social Security Act, shall be made directly or indirectly except as hereinafter authorized by this part or as otherwise expressly authorized by the Commissioner of Social Security.

§ 401.2 Authority for refusal to disclose. Any request or demand for any such file, record, report, or other paper, or information, disclosure of which is forbidden by this part, shall be declined upon authority of the provisions of section 1106 of the Social Security Act, and this part prescribed thereunder. If any officer or employee of the Department is sought to be required, by subpena or other compulsory process, to produce such file, record, report, or other paper, or give such information, he shall respectfully decline to present such file. record, report, or other paper, or divulge such information, basing his refusal upon the provisions of law, and this part prescribed thereunder.

§ 401.3 Information which may be disclosed and to whom. Disclosure of any such file, record, report, or other paper, or information, is hereby authorized in the following cases and for the following purposes:

(a) As to matters directly concerning any claimant or prospective claimant for benefits or payments under title II of the Social Security Act, to such claimant or prospective claimant or his duly authorized representative; or upon authorization by such claimant or prospective claimant, or his duly authorized representative, to others or to the public, when consistent with the proper and efficient administration of the act. However, statements of wage information may be furnished in such summary form as may be administratively deemed appropriate to the conduct of the old-age and survivors insurance program under title II, any request for wage information which is not reasonably necessary for a title II purpose may be refused.

(b) After death of an individual and when efficient administration permits such disclosure, any information relating to the individual may be furnished to a surviving relative or to the legal representative of the estate of the individual, and available information concerning the fact, date, or circumstances of death of the individual may be disclosed to any person, upon written request stating the purpose thereof, where such disclosure is considered not detrimental to the in-

dividual or to his estate.

(c) To the employer or former employer of an individual, the social security account number of the individual, and a copy of a coverage or wage determination relating to the individual, or a summary thereof setting forth the conclusions reached and the reasons therefor, if services for or wages paid by such employer or former employer are the subject of the determination. Any other information originally supplied by an employer may be furnished to him, upon written request stating the purpose thereof, when efficient administration permits.

(d) To any officer or employee of the Treasury Department, or of the Department of Justice, of the United States, lawfully charged with the administration of Titles II, VIII, or IX of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Acts, or the Federal Unemployment Tax Act, or any Federal income tax law, for the purpose of such administration only.

(e) To any officer or employee of an agency of the Federal Government or a State Government lawfully charged with the administration of a Federal or State unemployment compensation law or contribution or tax levied in connection therewith, for the purpose of such administration only.

(f) To any officer or employee of an agency of the Federal Government lawfully charged with the administration of a law providing for public assistance, or work relief, or pension, or retirement, or other benefit payments, only for the purpose of the proper administration of such law, or of the Social Security Act.

(g) To any officer or employee of an agency of a State Government lawfully charged with the administration of a program receiving aid under the Vocational Rehabilitation Act or Titles I. IV. V, X, or XIV of the Social Security Act, information regarding benefits paid or entitlement to benefits under title II of the Social Security Act and, if it has been determined, the date of birth of a recipient or applicant, where such information is necessary to enable the agency to determine the eligibility of or the amount of benefits or services due such recipient or applicant.

(h) To a Federal, State, municipal, or hospital official upon written request stating that he has the name or social security account number of a deceased or insane person or a person suffering from amnesia or who is unconscious or in a state equivalent thereto, but cannot establish such person's identity, such identifying data as is available relative to such person which may be determined by the proper officer of the Department to be necessary to assist the requesting officer or agency to make the required identification.

(i) To any officer, agency, establishment, or department of the Federal Government, charged with the duty of conducting an investigation or prosecution, for the purpose of such an investi-

gation or prosecution involving:

(1) An inquiry to determine whether there has been a violation of any provision of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Acts. the Federal Unemployment Tax Act, or any Federal income tax law, or of any regulation or procedure in effect thereunder, provided such violation is punishable as a crime under any of such laws or under any other Federal statute imposing criminal penalties; or

(2) An inquiry to determine whether any action of an officer or employee of the Department relating to the administration of the Social Security Act was attempted or effected with intent to de-

fraud the United States; or

(3) An inquiry with respect to an alleged theft, forgery, alteration, unlawful negotiation, or destruction of a check issued for a benefit under title II of the

Social Security Act; or

(4) Until the termination of the national emergency proclaimed by the President of the United States on December 16, 1950, an inquiry relating to the commission of an act of espionage or sabotage inimical to the national security Provided, That such information shall be disclosed only to the Federal Bureau of Investigation of the Department of Justice and only upon written certification by a central official thereof that the information requested is required in an investigation of major importance.

(j) Any record or information may be disclosed when such disclosure is necessary in connection with any claim or other proceeding under the Social Security Act and is necessary for the proper performance of the duties of any officer or employee of the Department.

(k) Statistical data or other similar information not relating to any particular person which may be compiled from records regularly maintained by the Department may be disclosed when

efficient administration permits. Information contained in or compiled from reports submitted by employers only (other than information relating to any identified or identifiable person except such employers, and other than information relating to any identified or identifiable self-employed individual) may be disclosed, when efficient administration permits, to any other agency of the Federal Government for use in its statistical and planning work only.

(1) The Commissioner may from time to time prescribe instructions as to the manner of disclosure of the foregoing

information.

(m) Disclosure of any return, file, record, report, or other paper or information, not relating or necessary to, or used in or in connection with, the administration of the old-age and survivors insurance program conducted pursuant to title II of the Social Security Act, shall not be subject to the limitation on disclosure in section 1106 of the act and shall be made only in accordance with policies prescribed by the Commissioner.

- (n) To any officer or employee of an agency of a State Government lawfully charged with the supervision of, or financial responsibility for, the care of a person who is mentally incompetent and who is confined in a State mental institution, information regarding his entitlement to benefits, and if entitled, the amount of such benefits and the name and address of the person to whom such benefits have been or are being paid. Disclosure under this paragraph shall be made only upon written certification by the State agency or institution that such information is to be used in connection with the performance of its duties under State law and that there is no other source from which it can obtain such information.
- (o) In connection with agreements and modifications of agreements for the coverage of State and local employees entered into pursuant to section 218 of the Social Security Act, the following may be disclosed when efficient administration permits:
- (1) The name of a State (or instrumentality of two or more States) with whom an agreement or modification has been entered into, the name or title of the official charged with carrying out the State's responsibilities with respect to an agreement, and the date of an agreement or modification:
- (2) The contents of an executed agreement or modification;
- (3) Information as to whether or not a State (or instrumentality of two or more States) has indicated an intention or desire to enter into such an agreement or modification, but not including information as to provisions being considered for inclusion in the proposed agreement or modification;
- (4) Information reported by a State as to whether or not there is in effect in such State or in a political subdivision a retirement system providing benefits to employees thereof:
- (5) Statistical information, classified by State and county, with respect to public employment and remuneration therefor (other than information relat-

ing to any identified or identifiable employee)

-§ 401.4 Definitions. As used in this part the term:

(a) "Claimant" includes a person who files application on his own behalf or as guardian of an infant or legal representative of an incompetent, or on whose behalf some other person files application, for monthly benefits or a lump-sum death payment;

(b) "Prospective claimant" includes a living wage earner, the legal representative of an incompetent wage earner, the guardian of an infant, the next of kin of a deceased wage earner, any other person who is equitably entitled by reason of having paid, in whole or part, the burial expenses of the deceased wage earner, or the legal representative of such next of kin or equitably entitled person;

(c) "Authorized representative" includes any individual authorized by the claimant or prospective claimant to request or receive information or to act on behalf of the claimant or prospective claimant:

(d) "Legal representative" includes any individual appointed by a court or otherwise authorized by law to act on behalf of a claimant or a prospective claimant:

(e) "Cost of disclosing information" means the actual cost of preparing for disclosure and disclosing such information to a person or agency requesting a disclosure thereof authorized by §§ 401.1 and 401.3;

(f) "Person" includes an individual, a firm, an association, a corporation, a State, a "political subdivision" of a State (as defined in section 218 of the act) or an instrumentality of two or more States.

(g) "Self-Employment Contributions Acts" means the Self-Employment Contributions Act and the Self-Employment Contributions Act of 1954.

§ 401.5 Payment for information in general. Except as provided in § 401.6, no information, authorized to be disclosed by § 401.1 or § 401.3, shall be prepared for disclosure or disclosed to the person or agency requesting such disclosure until the cost of disclosing such information shall have been paid in full to the Department.

§ 401.6 Payment for information in specific cases. In any case falling withmany of the paragraphs of this section the payment required as a prerequisite to preparation for disclosure or disclosure of information shall be as specified in such paragraph in lieu of the cost of disclosing such information. In any case in which the receipt of payment in advance, pursuant to this section or § 401.5, would interfere with efficient administration, the Department may permit such payment to be made at such time or times as it deems consistent with efficient administration.

(a) When the request is for information as to the wages and self-employment income of an individual and the periods during which such wages were paid and such income was derived, and the request is made by the individual, his survivor, or the legal representative of the individual or of his estate, the

information shall be furnished without charge.

(b) When the request is made by the Treasury Department or Department of Justice, of the United States, for a purpose specified in § 401.3 (d) or (i), the information shall be furnished without charge.

(c) When the request is made by an agency of a State Government lawfully charged with the administration of a State unemployment compensation law or contribution or tax levied in connection therewith, information relating to individual employees or employers which is necessary for the purpose of such administration may be furnished without charge, except where the request for any such information involves a special statistical study or a special compilation of data (except a comparison study made cooperatively with the State) in which case payment shall be required.

(d) In any case in which determination of the actual cost of disclosing information would interfere with efficient administration, such cost may be fixed at an amount estimated not to exceed actual cost, and the information may be prepared for disclosure and disclosed after payment of such amount. In any case in which the expense of obtaining reimbursement of such cost would be out of proportion to the amount thereof, or in which collection of such amount would interfere with efficient administration, payment thereof may be waived.

[SEAL] CHARLES I. SCHOTTLAND, Commissioner of Social Security.

Approved: July 14, 1955.

OVETA CULP HOBBY, Secretary of Health, Education, and Welfare.

[F. R. Doc. 55-5863; Filed, July 19, 1955; 8:47 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PESTICIDE CHEMICALS; EXTENDED DATES ON WHICH STATUTE SHALL BECOME FULLY EFFECTIVE

In compliance with the procedure set out in § 3.40 Pesticide chemicals; date on which statute becomes fully effective, published in the FEDERAL REGISTER of June 10, 1955 (20 F R. 4085) requests for extension of the date when the statute (68 Stat. 511 et seq., 21 U.S. C. 342, 346a) shall become fully effective have been received for a number of pesticide chemicals. Now, therefore, in exercise of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmette Act (secs. 402 (a) (2), 408; 68 Stat. 511, 517 (Ch. 559, Secs. 2, 5) 21 U. S. C. 342 (a) (2) and note 1 under section 342, 346a) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F R. 1996), it having been found that conditions exist necessitating such ex-

Wednesday, July 20, 1955 Butoxy polypropylene glycol: In animal fly tensions, the following statement of policy is issued: Calcium cyanamide: § 3.41 Pesticide chemicals; extended dates on which statute shall become fully effective. (a) The amendment in clause (2) of section 402 (a) of the Federal Food, Drug, and Cosmetic Act shall become effective on the dates specified for the following pesticide chemicals: (1) Effective date August 5, 1955: Aramite (2-p-tert-butylphenoxy)-isopropyl-2-chloroethyl sufite. (2) Effective date October 31, 1955: Acrylonitrile: As a fumigant. Aldrin: Apples, pears, and quinces. Avocados and papayas. Berries of the bramble type. Blueberries. Cherries. Citrus fruits (including grapefruit, lemons, oranges, and tangerines). Cranberries. Currants. Dates. Figs. Gooseberries. Grapes. Guavas. Peaches, nectarines, apricots, and mangoes. Pineapples. Plums and prunes. Strawberries. Artichokes. Asparagus. Beans (including black-eyed peas and soybeans). Beets (garden variety), turnips and rutabagas (including tops).
Beets, sugar (including tops) Broccoli, Brussels sprouts, kohlrabi. Cabbage and cauliflower. Carrots, horseradish, parsnips, and rad-ishes (including tops). Celery. Collards, kale, mustard greens, spinach, and Swiss chard. Corn, grain (including sweet, field, and popcorn). Corn fodder or forage. Cucumbers and summer squash. Eggplant, peppers, and pimentos. Endive (escarole), lettuce, and salsify. Melons (including cantaloupes, muskmelons, watermelons), pumpkins, winter squash. Okra. Onions (including leeks, shallots, and garlic). Parsley and watercress. Peanuts. Peas and cowpeas (including forage). Tomatoes. Grains (including oats, rye, barley, wheat, and rice). Buckwheat. Grain forage. Nuts (including pecans, almonds, hazelnuts, walnuts, hickory nuts). Legumes for forage (including clovers, alfalfa, soybean hay, peanut hay, and lespedeza).

Grass crops (pasture and range grass, tim-

Mint, spearmint, and peppermint.

Forage crops (alfalfa and clover).

othy, grass hay).

Sorghums.

Wheat. Oats.

Garlic.

Meat.

Blueberries.

Sorghum forage.

Benzene hexachloride:

Celery. Beans. Tomatoes. Potatoes. Cabbage and other crucifers. Asparagus. Hops. Small grains. Peas. Timothy hay. Stone fruits. Calcium cyanide: As grain fumigant. Carbon bisulfide: As grain fumigant. Carbon tetrachloride: As grain fumigant. Captan: Citrus fruits (grapefruit, lemons, limes, oranges, tangerines). Pineapples. Beans (green beans, lima beans, blackeyed peas). Peas. Potatoes. Apples, pears, quinces. Grapes. Strawberries. Cucumbers, summer squash. Eggplant, peppers.
Melons (cantaloupes, watermelons). Pumpkins, winter squash. Tomatoes. Peaches, nectarines, apricots, mangoes. Plums, prunes. Celery. Collards, spinach. Lettuce. Cherries (sweet and cour). Chlordane: Meat. Forage crops (including grass). Sweetpotatoes. Grains. Cottonseed. Sugarcane. Chlorobenzilate (ethyl-4.4'-dichlorobenzilate) Apples. Pears. Chloropicrin: As grain fumigant. Copper carbonate, basic: Pears. Forage crops (including alfalfa, clovers, peanuts, and other legumes).

Corn and similar forage. Meat. Grain. Oranges. Dieldrin: Avocados and papayas. Berries of the bramble type. Blueberries. Citrus fruits (including grapefruit, lemons, oranges, and tangerines). Cranberries. Currents. Dates. Figs. Gooseberries. Grapes. Guavas. Mangoes. Pineapples. Plums and prunes. Strawberries. Artichokes. Asparagus. Beans (including black-eyed peas and coy-Beets (garden variety), turnips, and rutabagas (including tops). Beets, sugar (including tops) Broccoli, brussels sprouts, kohlrabi. Cabbage and cauliflower. Carrots, horseradish, parsnips, and rad-ishes (including tops). Celery. Collards, kale, mustard greens, spinach, and Swiss chard.

FEDERAL REGISTER

sprays

Lettuce,

Corn, grain (including sweet, field, and popcorn). Corn fodder or forage. Cucumbers and summer equach. Egyplant, peppers, and pimientos. Endivo (escarole), lettuce, salsify. Melons (including cantaloupes, muskmelons, watermelons), pumpkins, and winter cquash. Okra. Pareley and watercress. Peanuto.
Peas and cowpeas (including forage).
Potatoes and oweetpotatoes. Tomatoes. Grains (including cats, rye, barley, wheat, rice).` Buckwheat. Grain forage Nuts (including pecans, almonds, hazel-nuts, walnuts, hickory nuts). Legumes for forage (including clovers, al-falfa, coybean hay, peanut hay, lespedeza). Graco crops (pasture and range grass, timothy, graco hay). Mint, spearmint, and peppermint. Sorghum. Sorghum forage. Endrin: Cabbage. Sugar beets. (O-ethyl-O-paranitrophenyl benzene thiophosphonate) Grapes. Nuts (including pecans, walnuts, and almonds). Tomatoes. Olives. Onlons. Cottonseed. Sugar beets. Ethylene dibromide: As grain fumigant. Ethylene dichloride: As grain fumigant. Ferbam: Almonda. Heptachlor: Alfalfa, clover, and sweet clover. Beets, including sugar beets.
Cabbage, bruccels sprouts, kohlrabi, and cauliflower. Cotton. Pasture and range grass. Onlons. Peanuts. Peas. Sugarcane. Sweetpotatoes. Turning. Hydrocyanic acid: As a fumigant for grains, dried peas and beans, and nut meats. Karathane (2,6-dinitro-6-caprylphenyl crotonate) Apples. Pears. Almonds. Cantaloup. Cucumbers. Squash. Karmex DW (3-(3,4-dlchlorophenyl)-1,1-dimethyl urea) Cottonseed. Karmex W (3-(parachlorophenyl)-1,1-dimethyl urea): Pincapple. Asparagus. Onlons. Sugarcane. Lindane: Cranberries. Cantaloups. Watermelons. Grain (from treating storage bins). Meat. Walnuts. Forage crops (alfalfa, clover). Sweetpotatoes and yams. Malathion: Alfalfa. Apples, Apricots. Avocados.

Apples. Pears.

fone)

Apples.

Apples. Pears.

Oranges. Lemons.

Broccoli.

Cabbage.

Potatoes.

Almonds.

Clover.

Hops.

Beets.

Turnips.

Cauliflower.

Muskmelons.

Cranberries.

Rutabagas. Sugar beets.

Horseradish.

Mustard greens.

rice, sorghum grain).

Parsnips.

Collards.

Spinach.

Peppers.

Pimentos.

Cowpeas.

Buckwheat.

ghum). Sugarcane.

Mushrooms,

Strawberries.

Almonds.

Pecans.

Hops.

Swiss chard.

Kale.

Plums and prunes.

Grapefruit.

Grapes. Strawberries.

Brussels sprouts.

English walnuts. Alfalfa.

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Potassium cyanate: As weed-killer spray, re-
 Barley.
                                                 sulting in residues on asparagus, onions,
 Beans.
                                                 peas, tomatoes, cottonseed, soybeans, field
 Beets.
 Blueberries.
                                               Sodium orthophenylphenate fetrahydrate:
 Broccoli.
 Brussels sprouts.
 Cabbage.
Cauliflower.
Celery.
Cherries.
                                                Sulfoxide (n-octylsulfoxide of isosafrole)
                                               In fly sprays.
Sulphenone (parachlorophenyl phenyl sul-
 Citrus.
 Clover.
                                                 Pears.
 Cranberries.
                                                 Peaches.
 Cucumbers.
 Dates.
Eggplant.
                                                Systox:
 Grapes.
 Guavas.
 Kale.
 Lettuce.
 Mangoes.
 Melons.
 Mustard.
 Oats.
 Onions.
 Passion fruit.
 Pasture grass.
 Peaches.
 Pears.
 Pecans.
 Peas.
 Peppers
 Pineapples.
                                                TDE: Meat.
 Plums.
 Potatoes.
                                                Toxaphene:
 Prunes.
 Rutabagas.
 Spinach.
 Squash.
Strawberries.
 Tomatoes.
 Turnips.
  Walnuts.
  Wheat.
Maleic hydrazide:
  Potatoes.
  Onions.
Maneb:
  Almonds.
Beans.
  Carrots.
  Celery.
  Cranberries.
  Cucumbers.
  Figs.
  Grapes.
  Onions.
  Peaches.
  Potatoes.
  Spinach.
  Tomatoes.
Methoxychlor:
  Carrots.
  Currants.
                                                 Trichloroethane: As grain fumigant.
  Gooseberries.
                                                Zineb:
Pecans.
  Pasture grasses.
  Forage legumes (alfalfa, clovers, peanuts,
    cowpeas, soybeans).
  Peanuts.
                                                 Ziram:
  Mint.
  Meat.
Methyl bromide: As a fumigant.
Ovotran (parachlorophenyl parachloroben-
    zene sulfonate)
  Apples.
  Peaches.
Parathion:
  Forage crops (alfalfa, clover, peas, pan-
    gola grass, timothy, vetch).
  Field crops (barley, corn, oats, wheat).
  Hops.
                         できるはまなどれたと
  Olives.
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Phygon (2,3-dichloro-1,4-napthoquinone):

Celery.

Tomatoes.

treatment).

(b) The extensions prescribed in paragraph (a) of this section apply only to the extent that tolerances or exemptions under section 408 of the Federal Food, Drug, and Cosmetic Act shall not have been established prior to the effective dates as extended.

(Sec. 701, 52 Stat. 1055; 21 U.S. C. 371)

Dated: July 14, 1955.

GEO. P. LARRICK, Commissioner of Food and Drugs.

Piperonyl butoxide: Grains (from storage [F. R. Doc. 55-5867; Filed, July 19, 1955; 8:48 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I-Public Health Service, Department of Health, Education, and Welfare

> PART 34-MEDICAL EXAMINATION OF ALIENS

Notice of proposed rule making, public rule making procedures and postponement of effective date have been found to be impracticable and unnecessary in the issuance of the following revision to this part. The regulations heroin, which implement the provisions of the Immigration and Nationality Act (66 Stat. 163), impose duties only on persons responsible for the medical examination of aliens pursuant to that Act, and the persons otherwise affected are, with the exception of aliens who may apply for adjustment of status under the Immigration and Nationality Act and whose identity is not now ascertainable, not yet admitted to the United States and therefore unavailable for participation in rule making.

Part 34 is amended to read as follows:

Sec. 34.1 Grains (including oats, rye, barley, wheat, Nuts (including pecans, walnuts, hazel-nuts, hickory nuts). Legumes for forage (including clovers, alfalfa, soybean hay, peanut hay, lespedeza, cowpea hay).

Grass crops (pasture and range grass, timothy, grass hay). Grain forage (including corn and sor-

Applicability. 34.2 Definitions. Examinations; female aliens. 34.3 Scope of examinations.
Aliens free of defect, disease, or dis-34.4 34.5 ability.
Aliens afflicted with defects, disease, or disability. Certificates and notifications: Class A. 34.7 Certificates and notifications; Class 34.8 Class A or Class B certificates; helpless aliens. 34.10 Certificates and notifications; Class C. 34.11 Deferral of examination: adequacy of facilities. Applicability of Foreign Quarantine Regulations.

34.13 Medical and other care; death. 34.14 Reexamination; convening of boards; expert witnesses; reports. 34.15 Prior regulations.

AUTHORITY \$\$ 34.1 to 34.15 issued under sec. 215, 58 Stat. 690, sec. 234, 66 Stat. 198; 42 U. S. C. 216, 8 U. S. C. 1224. Interpret or apply secs. 322, 325, 58 Stat. 696, 697, secs. 212, 234, 237, 66 Stat. 182, 198, 202; 42 U. S. C. 249, 252, 8 U. S. C. 1182, 1224, 1226.

§ 34.1 Applicability. The provisions of this part shall apply to:

(a) The medical examination of (1) aliens applying for a visa at a consulate of the United States, (2) aliens arriving in the United States, and (3) aliens presented or referred by the Immigration Service in connection with determina-tion of their admissibility into the United States, and

(b) The medical and other care, and burial, of aliens admitted to Public Health Service stations and hospitals at the request of the Immigration Service.

§ 34.2 Definitions. As used in this part, terms shall have the following meanings:

(a) Immigration Service. The Immigration and Naturalization Service of the Department of Justice.

(b) Dangerous contagious diseasc. Any of the following diseases:

1. Actinomycosis.

2. Amebiasis.

- 3. Blastomycosis.
- 4. Chancrold.
- 5. Favus.
- 6. Filariasis.
- 7. Gonorrhea.
- 8. Granuloma Inguinale.
- 9. Keratoconjunctivitis Infections.
- Leishmaniasis...
- 11. Lymphogranuloma Venereum.
- 12. Mycetoma.
- Paragonimiasis.
- 14. Ringworm of scalp.
- 15. Schistosomiasis.
- 16. Syphilis, infectious stage.
- 17. Trachoma.
- 18. Trypanosomiasis.
- 19. Yaws.

(c) Medical certificate. A document issued to the Immigration Service by a medical examiner, reporting the presence of any physical or mental defect, disease, or disability, or the previous occurrence of one or more attacks of msanity, ın an alien.

(d) Medical notification. A document issued to a consular authority by a medical examiner, reporting the presence of any physical or mental defect, disease, or disability or the previous occurrence of one or more attacks of insanity, in an alien. Medical notification shall be made on the form prescribed for reporting the results of the medical examination of applicants for visas.

(e) Medical officer A physician of the Public Health Service assigned or detailed by the Surgeon General of the Public Health Service to make mental and physical examinations of aliens.

- (f) Medical officer in charge. A medical officer charged by the Surgeon General with responsibility for the conduct and supervision of all medical examinations made at a designated place or in a designated area.
- § 34.3 Examinations; female aliens. Female aliens shall be examined only in the presence of a female nurse or other female, or by a female physician.
- § 34.4 Scope of examintion—(a) General. In performing examinations and reexaminations, medical examiners shall give consideration to only those matters that relate to the physical or mental condition of the alien and shall issue certificates or notifications of a defect, disease, or disability or previous occurrence of one or more attacks of insanity as heremafter provided only if the presence of such defect, disease, or disability or previous occurrence of one or more attacks of insanity has been clearly estab-
- (b) Chest X-ray and serologic test; examination report—(1) Requirement for visa applicants. Except as provided in subparagraph (5) of this paragraph, a chest X-ray for tuberculosis and a serologic test for syphilis shall be required as part of the examination of:
- (i) All applicants for immigrant visas. (ii) All students and exchange visitors who are required by a consular authority to have a medical examination upon application for a nonimmigrant visa.
- (iii) Any other applicant for a nonimmigrant visa who is required by a consular authority to have a medical examination, if such X-ray and serologic test

When necessary X-ray and laboratory facilities are not available to the medical examiner, the applicant may be required to furnish a chest X-ray, a reading thereof, and a serologic test report m order that the medical examination may be completed. The X-ray and the medical examination report, including X-ray reading and serologic test report, shall be placed in a separate envelope which shall be sealed and attached to the alien's visa in such a manner as to be readily detached by the medical examiner at the United States port of entry. However, if the necessary X-ray or serologic test facilities for completion of the examination are not available in the community where the examination is made, the medical examiner shall so state upon the medical examination

- (2) Requirements at United States ports. If, at the time the determination of admissibility is to be made, no X-ray film, reading, serologic test report, or medical examination report is attached to the visa of an immigrant, or of a nonimmigrant when required by subparagraph (1) of this paragraph, a medical hold shall be issued pending completion of the examination by such X-ray, serologic test, and other procedures as may be required.
- (3) Adjustment of status cases. Except as provided in subparagraph (5) of this paragraph, a chest X-ray for tuberculosis and a serologic test for syphilis shall be included in the examination of all applicants for adjustment of status under the immigration laws.

(4) Size of X-ray film. All X-ray films used in medical examinations performed under the regulations in this part shall be at least 70 mm. in size.

(5) Exceptions. (i) A large X-ray film, that cannot readily be carried in an envelope attached to the visa, may be placed in a separate envelope which shall be sealed and given to the alien for presentation to the medical examiner at the United States port of entry.

(ii) Notwithstanding other provisions of this section, a chest X-ray for tuberculosis shall not be required in the case of an alien 10 years of age or under unless the medical examiner has reason to suspect that the alien has tuberculosis. A serologic test for syphilis shall not be required in the case of an alien 14 years of age or under unless the medical examiner has reason to suspect that the applicant has syphilis.

§ 34.5 Aliens free of defect, disease, or disability. If an alien is found to have no physical or mental defect, disease, or disability and no history of a previous attack of insanity, the medical examiner shall so indicate to the consular or immigration authority concerned.

§ 34.6 Aliens afflicted with defect, disease, or disability. If an alien is found to have any physical or mental defect, disease, or disability or to have had one or more attacks of insanity, the medical examiner shall report his findings to the Immigration Service by medi-

are considered necessary by the medical cal certificate or to the consular authority by medical notification.

> § 34.7 Certificates and notifications; Class A. A Class A certificate or Class A notification shall be issued with respect to aliens who:

(a) Are feeble-minded;(b) Are insane;

(c) Have had one or more attacks of insanity.

(d) Are afflicted with psychopathic personality, epilepsy, or a mental defect;
(e) Are narcotic drug addicts or

chronic alcoholics;

(f) Are afflicted with tuberculosis in any form;

(g) Are afflicted with leprosy

(h) Are afflicted with any dangerous contagious disease:

Provided, however, That a Class A certificate or Class A notification of a mental defect, disease, or disability shall in no case be issued with respect to an alien having only mental shortcomings due to ignorance, or suffering only from a mental condition (i) attributable to remediable physical causes or (ii) of a temporary nature, caused by a toxin, drug, or disease.

§ 34.8 Certificates and notifications; Class B. A Class B certificate or Class B notification shall be issued with respect to an allen who has a physical defect, disease, or disability serious in degree or permanent in nature amounting to a substantial departure from normal physical well-being. The certificate, or notification, shall state the nature and extent of the defect; the degree to which the alien is incapable of normal physical activity; and the extent to which the condition is remediable.

§ 34.9 Class A or Class B certificates; helpless aliens. If an alien with respect to whom a Class A or Class B certificate is issued is helpless from sickness, mental or physical disability, or infancy, the medical examiner shall so state in the certificate.

§ 34.10 Certificates and notifications; Class C. A Class C certificate or Class C notification shall be issued with respect to an alien who has a defect, disease, or disability other than those for which a Class A or Class B certificate (or notification) is required to be issued.

§ 34.11 Deferral of examination; adequacy of facilities. (a) Whenever, upon an examination, it appears to the medical officer in charge that there is doubt about the physical or mental condition of an allen, completion of the examination shall be deferred for such observation and further examination of the alien as may be reasonably necessary to determine his physical or mental condition.

(b) When, in the judgment of the medical officer in charge, a medical examination in the United States or in a territory or possession thereof cannot be satisfactorily completed at a station or place at which it is undertaken, such examination shall be discontinued and such officer shall request of the Immigration Service that the alien be removed to a place where the examination may be satisfactorily completed.

§ 34.12 Applicability of Foreign Quarantine Regulations. Aliens arriving at a port of the United States shall be subject to the applicable provisions of Part 71 of this chapter (Foreign Quarantine Regulations of the Public Health Service) with respect to examination and sanitary and quarantine measures.

§ 34.13 Medical and other care; death. (a) Upon request by the Immigration Service, an alien detained by it shall be admitted to a hospital or station of the Public Health Service and receive therein necessary medical, surgical, and dental care. An alien found to be in need of emergency care in the course of an examination or reexamination in the United States, or in a territory or possession thereof, shall be given such care to the extent deemed practicable by the medical officer in charge, and if in need of further care he shall be referred to the immigration authority concerned, with the medical examiner's recommendations concerning such further care.

(b) In case of death of an alien the body shall be delivered to the consular or immigration authority concerned; but if such death occurs in the United States. or in a territory or possession thereof, public burial shall be provided upon request of the Immigration Service and subject to its agreement to pay the burial expenses. Autopsies shall not be performed unless approved by the Immigration Service.

§ 34.14 Reexamination, convening of boards; expert witnesses; reports. (a) The Surgeon General or, when authorized, the medical officer in charge, shall convene a board of medical officers to reexamine an alien

(1) Upon the request of the Immigration Service for a reexamination by such

a board, or

(2) Upon an appeal by an alien who, having applied for admission to the United States or for adjustment of status under the immigration laws, has been given a medical examination and has been certified for feeble-mindedness; insanity one or more previous attacks of insanity psychopathic personality. epilepsy mental defect; narcotic drug addiction; or chronic alcoholism.

(b) Such a board shall consist of three, when practicable, but in no case less than two, medical officers. If a board of two officers is unable to reach agreement, a new board shall be convened and shall reexamine the alien. In the event that a board consists of three medical officers, the decision of the

majority thereof shall prevail. (c) Reexamination shall include:

- (1) A medical examination by the board. If the mental condition of the alien is in question and the board does not include at least one officer who has had special training in the diagnosis of mental defects, diseases, and disabilities, the board shall designate a physician with such training who shall also examine the alien, and his report shall be included in the record.
- (2) A review of all records submitted by the alien, other witnesses, or the board.

(3) Use of any laboratory or diagnostic methods or tests deemed advisable.

(4) Consideration of statements regarding the alien's physical or mental condition made by a physician after his examination of the alien.

(d) An alien who is to be reexamined shall be notified of the time and place of his reexamination not less than five days prior thereto.

(e) The alien may introduce as witnesses before the board such physicians or medical experts as the board may in its discretion permit, at his own cost and expense: Provided, That the alien shall be permitted to introduce at least one expert medical witness. If any witnesses offered are not permitted by the board to testify, the record of the proceedings shall show the reason for the

denial of permission.

(f) Witnesses before the board shall be given a reasonable opportunity to examine medical certificates and other records involved in the reexamination and to present all relevant and material evidence orally or in writing until such time as the proceedings are declared by the board to be closed. During the course of the hearing the alien's attorney or representative shall be permitted to examine the alien and he, or the alien, shall be permitted to examine any witnesses offered in the alien's behalf and to cross-examine any witnesses called by the board. If the alien does not have an attorney or representative, the board shall assist the alien in the presentation of his case to the end that all of the material and relevant facts may be adduced.

(g) The findings and conclusions of the board shall be based on its medical examination of the alien and on the evidence presented and made a part of

the record of its proceedings.

(h). The board shall report its findings and conclusions to the Immigration Service, and shall also give prompt notice thereof to the alien if the reexamination has been held upon his appeal. The board's report to the Immigration Service shall specifically affirm, modify, or reject the findings and conclusions of prior examining medical officers.

- (i) If the board finds that an alien reexamined by it has a defect, disease, or disability, or has had one or more attacks of insanity, not previously certified, it shall issue its certificate in accordance with the applicable provisions of this part.
- (i) After submission of its report the board shall not be reconvened, nor shall a new board be convened, in connection with the same application for admission or for adjustment of status, except upon the express authorization of the Surgeon General.

§ 34.15 Prior regulations. Regulations under this part, in effect on December 23, 1952, shall continue to be effective so far as may be applicable and necessary under section 405 of the Im-.migration and Nationality Act, 66 Stat.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] LEONARD A. SCHEELE,

Surgeon General.

Approved: July 14, 1955.

OVETA CULP HOBBY. Secretary.

[F. R. Doc. 55-5862; Filed, July 19, 1955; 8:46 a. m.1

TITLE 47-TELECOMMUNI-CATION

Chapter I—Federal Communications Commission

[Rules Amdt. 17-4]

PART 17—CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA TOWERS AND/OR THEIR SUPPORTING STRUCTURES

MISCELLANEOUS AMENDMENTS

In the matter of amendment of Part 17 of the Commission's rules and regulations to effect certain editorial changes therein.

The Commission has under consideration the desirability of making certain editorial changes in Part 17 of its rules and regulations governing the construction, marking and lighting of antenna towers and supporting structures.

Section 17.43 (c) of the rules, which exempts antenna structures authorized prior to a certain date from various provisions of Part 17, now reads as follows:

(c) Except as set forth in paragraphs (a) and (b) of this section, nothing in the criteria set forth in § 17.11 to § 17.17 or this subpart concerning antenna structures or locations shall apply to painting and lighting those structures authorized prior to February 25, 1951 (effective date of Part 17) except where lighting and painting requirements are reduced, in which case the lesser requirements may apply.

The present text of the above rule was adopted on September 30, 1953 (FCC 53-1292) Prior to the present language, § 17.43, which was adopted by the Commission on February 25, 1953, and became effective on March 30, 1953 (FCC 53-203), read as follows:

(c) Nothing in the criteria set forth in §§ 17.11 to 17.17 or Subpart C of these rules concerning antenna structures or locations shall apply to painting and lighting those structures authorized prior to the effective date of these rules except where lighting and painting requirements are reduced, in which case the lesser requirements may apply.

When the above provisions of § 17.43 were published in the FEDERAL REGISTER on March 10, 1953 (p. 1356), the phrase "effective date of these rules" was inadvertently changed to "effective date of this part." In adopting § 17.43 (c) the Commission intended to specify the effective date of subpart C of Part 17, which was March 30, 1953, rather than the effective date of Part 17, which was February 15, 1951. This is demonstrated by the fact that in its Notice of Proposed Rule Making in Docket No. 10583 (FCC 53-246), the text of the proposed § 17.43 (c) referred to "structures

authorized prior to March 30, 1953." However, in the Commission's Report and Order in this proceeding (FCC 53–1292) this reference was inadvertently changed to "structures authorized prior to February 15, 1951 (effective date of Part 17)" The reference to the date in § 17.43 (c) is therefore incorrect and should be changed to March 30, 1953; and this Section is being amended accordingly.

In adopting the present title of Subpart B in the finalization of Part 17 Rule Making, Docket 9671, on December 13, 1950, the Commission inadvertently included wordage which it had intended to delete; the title now reads as follows: Criteria for Determining Whether Applications for Radio Towers Limitation in Connection with Air Navigation Require Special Aeronautical Study.

It was the Commission's intention in preparing the final draft of Part 17 text to delete the words "Limitation in Connection with Air Navigation" The title is therefore incorrect and is being

amended accordingly.

Section 17.4 states the Commission consideration of applications proposing antenna structures with respect to possible hazard to air navigation. The text in § 17.4 (a) and (b) in stating the Commission action to be taken with respect to the criteria set forth in Subpart B entitled "Critera for Determining Whether Applications for Radio Towers Require Special Aeronautical Study" erroneously refers to "Aeronautical Study" instead of "Special Aeronautical Study" This reference in each section is therefore incorrect and is being amended accordingly.

The amendments adopted herein are editorial in nature, and, therefore, prior publication of notice of proposed rule making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately.

The amendments adopted herein are issued pursuant to authority contained in sections 4 (i) 5 (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 (a) of the Commission's Statement of Organization, Delegations of Authority and Other Information.

It is ordered, This 14th day of July 1955, that, effective immediately, Part 17 of the Commission's rules and regulations is revised to include the editorial changes set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended, sec. 5, 48 Stat. 1066, as amended; 47 U. S. C. 303, 155)

Released: July 15, 1955.

Federal Communications
Commission,
[SEAL] Mary Jane Morris,
Secretary.

1. Amend § 17.4 (a) and (b) to read as follows:

§ 17.4 Commission consideration of proposed antenna structure with respect to possible hazard to air navigation. (a) All applications which in the light of the criteria set forth in Subpart B require special aeronautical study will be referred by the Commission through appropriate channels to the Airspace Subcommittee of the Air Coordinating Committee for its recommendation.

(b) All applications which do not require special aeronautical study in view of the criteria set forth in Subpart B will be deemed not to involve a hazard to air navigation and will be considered by the Commission without reference to the Airspace Subcommittee of the Air Coordinating Committee.

- 2. The title to Subpart B of Part 17 is amended to read as follows: Subpart B—Criteria for Determining Whether Applications for Radio Towers Require Special Aeronautical Study.
- 3. Amend § 17.43 (c) to read as follows:

§ 17.43 Painting and lighting existing structures.

(c) Except as set forth in paragraphs (a) and (b) of this section, nothing in the criteria set forth in §§ 17.11 to 17.17 or this subpart concerning antenna structures or locations shall apply to painting and lighting those structures authorized prior to March 30, 1953 except where lighting and painting requirements are reduced, in which case the lesser requirements may apply.

[F. R. Doc. 55-5872; Filed, July 19, 1955; 8:50 a.m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle
[Ex Parte MC-5]

PART 174—SURETY BONDS AND POLICIES OF INSURANCE

Subchapter D—Freight Forwarders
IEx Parte 1591

PART 405—SURETY BONDS AND POLICIES OF INSURANCE

INSURANCE, MINIMUM AMOUNTS; LIMITS OF LIABILITY

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of June A. D. 1955.

In the matter of security for protection of the public as provided in part II of the Interstate Commerce Act, and of rules and regulations governing filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securties and agreements by motor carriers and brokers subject to part II of the act; Ex Parte No. MC-5.

In the matter of security for protection of the public as provided in part IV of the Interstate Commerce Act, and of rules and regulations governing filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements by freight forwarders subject to part IV

of the act; Ex Parte No. 159.

It appearing, that by order of January 19, 1953, the above-entitled proceedings were reopened, on motion of the Commission, Division 5, for further hearing for the purpose of determining whether the amounts of public liability, property damage, and cargo insurance required by rule II (49 CFR, 1947 Supp., § 174.2) of our rules and regulations prescribed in Motor Carriers Insurance for Protection of the Public, 1 M. C. C. 45, and by rule 3 (49 CFR, 1944 Supp., § 405.3) of our rules and regulations prescribed in Freight Forwarder Insurance for Protection of the Public, 260 I. C. C. 375, should be increased:

It further appearing, that such further hearing has been held, that full investigation of the matters and things involved has been made, and that said division, on the date hereof, has made and filed a report on further hearing containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof.

It is ordered, That from and after November 1, 1955, rule II of the rules and regulations prescribed by the orders of August 3, 1936, and April 13, 1951, Ex Parte No. MC-5 and rule 3 of the rules and regulations prescribed by the orders of October 11, 1944, and April 13, 1951, in Ex Parte No. 159, be, and they are hereby, amended to read as follows:

§ 174.2 Insurance, minimum amounts. The minimum amounts referred to in § 174.1 are hereby prescribed as follows:

(a) Motor carriers; bodily mjury lia-

bility, property damage liability.

(1)	(2)	ග	(4)
Kind of equipment	Limit for bodi- ly injuries to or death of one person		Limit for loss or damage in any one acci- dent to prop- erty of others excluding cargo)
Passenger equipment (scating capacity): 7 passenger or less. 8 to 12 passengers, inclusive. 13 to 20 passengers, inclusive. 21 to 30 passengers, inclusive. 31 passengers or more. Freight equipment: All motor vehicles used in the transperiation of property.	\$23,600 23,600 23,600 23,600 25,600 25,600	\$100,000 120,000 200,000 220,000 200,000	\$10,000 10,000 10,000 10,000 10,000

²Filed as part of original document.

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(49 Stat. 546, as amended, 49 U.S. C. 304. Interprets or applies sec. 215, 49 Stat. 557; 49 U. S. C. 315)

§ 405.3 Limits of liability. The minimum amounts referred to in § 405.2 are hereby prescribed as follows:

(b) Public liability and property damage. Limits for bodily injury to or death of any person, or loss of or damage to property, except property referred to in paragraph (a) of this section:

(1) For bodily injuries to or death of

one person-\$25,000.

(2) For bodily injuries to or death of all persons injured or killed in any one accident subject to a maximum of \$25,000 for bodily injuries to or death of one person-\$100,000.

(3) For loss of or damage in any one accident to property, excluding cargo, of others—\$10,000.

(56 Stat. 285; 49 U. S. C. 1003)

Notice of this order shall be given to the general public by depositing a copy hereof in the Office of the Secretary of the Commission at Washington, D. C., and by filing copies with the Director of the Division of the Federal Register.

By the Commission, Division 5.

[SEAL]

HAROLD D. McCoy. Secretary.

8:47 a. m.]

TITLE 50-WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F-Alaska Commercial Fisheries PART 104-BRISTOL BAY AREA

WEEKLY CLOSED PERIODS

Basis and purpose: On the basis of poor escapement in the Kvichak, Egegik and Ugashik Districts of Bristol Bay, the weekly closed periods are adjusted as follows:

Effective immediately upon publication in the FEDERAL REGISTER, § 104.5 is amended in paragraphs (b) (c) and (d) by adding the following proviso to the text of each: "Provided. That fishing is prohibited from 6:00 o'clock ante meridian Monday July 18, 1955, to 12 o'clock noon July 18, 1955, and from 6:00 o'clock ante meridian Tuesday, July 19, 1955, to 6:00 o'clock ante meridian, Tuesday, July 26, 1955."

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237 5 U.S. C. 1001 et seq.)

Dated: July 18, 1955.

ARNIE J. SUOMELA. Acting Director

[F. R. Doc. 55-5865; Filed, July 19, 1955; [F. R. Doc. 55-5915; Filed, July 18, 1955; 12:17 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [7 CFR Part 908]

[Docket No. AO-243]

HANDLING OF MILK IN CENTRAL ARKANSAS MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OP-PORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seg.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Central Arkansas marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 15th day after publication of this decision in the Federal Register.

Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which the proposed marketing agreement and order was formulated, was conducted at Little Rock, Arkansas, on January 4-12, 1955. pursuant to notice thereof which was issued on December 15, 1954 (19 F R. 8709)

The material issues of record related to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a milk marketing agreement or order;

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers: and

(e) Administrative provisions.

The hearing notice included proposals to include as part of the marketing area the counties of Howard, Sevier, Hempstead, Miller, Lafayette, Columbia, and Ouachita in Arkansas and Bowie in

Texas. The record evidence indicates that marketing conditions in the aforementioned counties are not similar to the extent that it would be advisable to include them under an order with the Central Arkansas area. Decision on the material issues as they pertain to the enumerated counties is reserved for later determination.

Findings and conclusions. The findings and conclusions with respect to the material issues for the area being considered, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

1. Character of commerce. The handling of milk in the proposed Central Arkansas marketing area is in the current of interstate commerce, and directly burdens, obstructs or affects interstate commerce in milk and its products.

The marketing area specified in the proposed order, hereinafter known as the Central Arkansas marketing area, includes all of the territory within the boundaries of the counties of Pulaski, Jefferson, Faulkner, White, Clark and Garland. All of the counties are in the State of Arkansas. Approximately 1000 producers located in the State of Arkansas supply about 9 million pounds of milk per month to about 12 milk plants which distribute fluid milk to consumers in the proposed area. Milk from two major distributors in this group is distributed regularly in Tennessee. Nearly half of the Class I sales from one plant are to outlets in the Memphis, Tennessee marketing area. One of the plants also distributes milk in Oklahoma.

Local supplies of milk have been inadequate to meet Class I needs plus adequate reserves each month of the year for several years. Handlers who supplied fluid milk to the proposed marketing area have been required to make frequent imports of bulk Grade A milk from sources in Oklahoma, Illinois, Missouri, Tennessee, and Wisconsin. The record indicates that between 6 and 7 million pounds of supplemental milk was received by these handlers from sources other than producers during the year prior to the hearing. This milk was commingled with milk received from local producers and marketed to fluid outlets both in the State of Arkansas and elsewhere.

2. Marketing conditions. The issuance of a marketing agreement or order will tend to effectuate the declared policy of the act.

The Central Arkansas market is characterized by unstable marketing condi-The conditions which have tions. resulted in unrest and instability in this area are typical of those encountered in the fluid milk industry in the absence of a well-defined marketwide classified pricing plan.

The record discloses that a large proportion of the producers in the proposed marketing area are members of the Central Arkansas Milk Producers Association. The association has had contracts for the sale of its producers' milk for the past two or three years with all but one of the major handlers. These contracts covered most of the producer milk received by Little Rock handlers, and part of that received by handlers doing business in the surrounding areas which would be included under this proposed order.

Such contracts provided a base rating plan as a method for paying producers. Under this plan producers received a price equal to the average of Class I prices in eight Federally regulated markets for all milk delivered during a sixmonth base forming period. Throughout the remainder of the year, they received such base price for all or a portion of their base milk. All excess milk, and at times some base milk, has been paid for at surplus prices. The proportion of base milk paid for at surplus prices has been the same for all handlers.

Under the foregoing arrangement, the handlers' costs of milk have not been dependent upon the utilization made of milk, and have varied from one handler to the next. Such variations in the average cost of milk are accounted for largely by differences in seasonal pattern of purchases from producers, and in part by differences in the proportion of milk purchased from outside sources at different prices. Under conditions such as these, any handler could obtain lower than overage cost for producer milk used in Class I, even though prices were the same to all handlers, through regulating the amount of milk he accepted from producers at different seasons of the vear.

Thus, each handler has the incentive to receive milk in such a way as to obtain as much of his milk as possible at surplus prices. To the extent a handler can use his excess milk for Class I sales, he stands to gain an advantage of 2 to 4 cents per quart of milk relative to his competition. It is possible to increase the use of excess milk for Class I sales by expanding Class I sales in the months of flush production, or by establishing a low wintertime base in relation to his bottled or Class I sales. The latter can be accomplished by receiving less milk from producers and by placing increased reliance during the fall and winter on milk from other sources. The net result of such competitive conditions is to interfere with the maximum production of milk at prevailing prices, and to weaken the incentive for handlers to maintain the dependable supplies of quality milk needed by the market. It has resulted also in competition for milk sales at price levels insufficient to assure orderly marketing of quality milk in the Central Arkansas area.

Producer representatives testified that efforts to get handlers to purchase milk on a utilization basis have failed. The uncertainty among handlers as to product cost of competitors, and the incentives to buy milk on a basis so as to avoid the Class I costs incident to the producer contract, have brought about substantial market instability. Two large handlers have given notice to the association of intention to cancel the contract, such cancellation to become effective 9 months after notice. The association was unable to obtain reinstatement of the contract.

Another unstabilizing element in the Central Arkansas market is the fact that one of the major handlers has been reg-

ulated at times under Order No. 76 regulating the handling of milk in the Fort Smith, Arkansas, area, while another has been subject to Order No. 18 regulating the handling of milk in the Memphis, Tennessee, area. The pricing, payment, and base rating provisions of these orders are somewhat different, and producers claim that such variations have led to disturbances in the purchasing and marketing of producer milk in the area.

The hearing record indicates rather general agreement among various interests in the market that the instability and market chaos are such that an overall system of classification and pricing of milk should be adopted, and that for such a system to be effective it must be carried out under governmental authority.

The record indicates also that there is a lack of market statistics for this area. Such information is essential in achieving a level of Grade A milk production commensurate with consumer demand for Grade A fluid products at different seasons of the year. Some data are available from health authorities. The producers' association has partial figures on local milk supplies. This information, however, is not fully satisfactory to the needs of the market, since current monthly data are required by both handlers and producers to evaluate changes in supply and demand conditions for the purpose of arriving at appropriate prices.

It is concluded that the issuance of a marketing agreement and order for the Central Arkansas marketing area would contribute substantially to the improvement of many of the conditions complained of, and tend to effectuate the declared policy of the act; namely, to establish and maintain, by means of the regulatory provisions expressly provided for in the act for such purposes, such orderly marketing conditions in the area as will tend to establish prices to the producers of milk for the marketing area at a level as will reflect the factors set forth in Section 8 (c) (18) of the act, insure a sufficient quantity of pure and wholesome milk for the marketing area, and be in the public interest.

3. Order provisions—(a) Scope of regulation—Marketing area. The Central Arkansas marketing area should include all of the territory within the boundaries of the counties of Clerk, Faulkner, Garland, Jefferson, Pulaski and White, all in the State of Arkansas. The largest urban centers in these counties are Little Rock, Hot Springs, Conway, Searcy, Pine Bluff and Arkadelphia.

The proposed area is served primarily by a group of about twelve handlers. These handlers distribute by far the largest share of their fluid milk sales either in the proposed area, or in marketing areas regulated under other Federal orders. A comparatively small percentage of their fluid milk sales outside the proposed area are in competition with unregulated handlers.

Because of the small proportion of the total milk sales by Central Arkansas handlers in competition with handlers who would be unregulated, it is considered unnecessary to include within the marketing area all of the counties proposed for regulation. It would be impossible

to define a marketing area where no overlapping of sales would be involved. Extension of the marketing area to include the entire area in which regulated handlers distribute milk would bring handlers and areas dominated by somewhat different marketing conditions under uniform regulations with handlers doing business primarily in the central part of the State. The evidence does not indicate that failure to bring under regulation areas not herein recommended will result in instability to market conditions in the proposed area, or that regulation on such a scale would solve more problems than it would create.

There is a large degree of competition of milk sales in the proposed area among handlers who would be regulated. Most of the handlers serving Pulaski County compete with each other throughout the metropolitan area of Little Rock. One or more of these handlers has substantial sales in each of the counties outside Pulaski, recommended for inclusion in the marketing area. Four distribute milk in Faulkner, two in Garland, three in Jefferson, three in White, and one in Clark.

State health regulations with respect to quality standards and labeling of Grade A milk apply uniformly throughout the proposed marketing area. No milk may be sold in the area for flud consumption unless it meets the minmum Grade A standards of the state.

Several of the cities within the proposed area have health ordinances of their own, which have standards at least equal to those imposed by the state. State officials recognize the inspection services of these individual cities, but make periodic checks to verify the enforcement of such local ordinances.

The record indicates that milk sold throughout the area is of approximately equal minimum quality. Milk from the Little Rock market is accepted throughout the area. There is no evidence that milk from any of the local health jurnsdictions has been refused under present ordinances or would not now be acceptable in all other such jurisdictions in the area as well as to the state authorities.

Designation of plants and mill: to be subject to regulation. Provision should be made in the order to designate clearly what milk will be subject to pricing provisions of the order. For this reason, definitions of handlers, milk plants, producers, producer milk, and other source milk should be provided. Such definitions will permit unequivocal reference to these persons or items throughout the order.

The term "handler" should be used to designate the operator of a milk plant which supplies or distributes milk for fluid consumption in the marketing area. Handlers are the persons who should be required to report the sources and utilization of milk, the handling of which is to be regulated, and should be held responsible for paying for milk received from producers in accordance with the terms of the order. In case a person operates more than one plant which is subject to the order, he should be a handler with respect to the com-

bined operations of such plants, unless the plants are operated on a completely independent basis, so far as Class I sales and procurement of producer milk are concerned. If the handler operates other plants in no way associated with the regulated market, he would not be a handler with respect to such plants. Producer-handlers (who produce their own milk supply) and operators of approved plants which do not qualify as pool plants should be included as handlers in order to require such persons to report to the market administrator as necessary to verify their status.

A cooperative association which markets the milk of its producer members may, during periods of flush production, need to divert producers' milk from pool plants to nonpool plants for disposal as Class II milk. If such an association is defined as a handler for such milk, the producers whose milk is so diverted may continue to share in the overall utilization of milk under the order. The provisions of the order should be such that milk of such producers will be available for fluid use when needed in the regulated market in the fall months, or at other times.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area, which is received from dairy farmers at plants primarily engaged in distributing fluid milk on retail and wholesale routes in the marketing area, or in supplying bulk milk to such distributing plants. These plants should be defined as "pool plants." Each plant from which a substantial share of the milk is supplied to the marketing area should be fully subject to the pricing and pooling provisions of the order. This is necessary to assure the effectiveness of the order in achieving the objectives of the Agricultural Marketing Agreement Act. A plant not supplying such portions of its milk to the market should not be subject to pricing and pooling under the order.

As pointed out elsewhere herein, the order should provide for a marketwide pool. Such a pool is considered essential to the stable and orderly functioning of the market. Since the marketwide pool results in payment to all producers on an average utilization for the market, individual handlers are relieved of any responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. Whatever utilization of milk a handler may have, his rate of pay to producers will be the same as that of all other handlers in the market. Thus, it is possible that status with respect to the pool may become a determining factor in guiding a handler's operation.

The scope of pooling, or the rules for distributing the returns from Class I sales under the order must be such that the differentials over manufacturing milk values paid by users of Class I milk will serve the purpose for which they are intended.

The premium, or differential, over the manufactured milk price paid for Class I milk is essential as an incentive to producers for producing milk of the quality required, and at the time needed by

consumers. Extra costs are involved in providing sanitary surroundings for the dairy herd, and in maintaining milk production during the fall and winter months when feeding and housing costs increase. Extra costs are involved also in handling of milk for fluid use, since it must be refrigerated, handled through sanitary utensils and facilities, and marketed promptly.

The extra costs thus involved for Grade A or fluid milk producers must be borne by that share of the milk which is marketed as Class I milk. Excess or reserve milk, although an essential part of a fluid milk business, cannot be expected to return more to producers than a manufactured milk value. The only outlet for reserve milk not needed for fluid use is in the form of manufactured products. Such products must be marketed in competition with similar products made from ungraded milk throughout the country.

Since the production of high quality milk involves extra expenses, it is important that the amount of milk produced under Grade A inspection be no more than the minimum necessary to provide the market with an adequate and dependable supply of quality milk. To encourage more than enough production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk not an essential part of the market supply would not result in extra value to consumers equal to the cost involved.

One of the primary problems, then, in defining pool plants is to establish rules which will provide for the sharing of Class I sales (Class I differentials) among the sources which are primarily associated with the Central Arkansas market and which are a regular part of the milk supply.

The Class I prices proposed herein are set as nearly as possible at the minimum levels considered necessary to encourage the required amount of milk production. The resulting returns should be distributed in such a way as to assure the market of the maximum dependable supply of quality milk which can be obtained at these prices. In order to do this, provision is made that equalization of market sales should be only to plants meeting reasonable performance standards with respect to supplying their producer milk to the market.

Plants only casually, or incidentally associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize their sales with all handlers in the market. If a milk plant were permitted to share, on a pro rata basis, the Class I utilization of the entire market, without being genuinely associated with the market, then the premiums or differentials paid by users of Class I milk would be subject to dissipation without accomplishing their intended purpose, If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all regulated handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be in compliance with the necessary health department standards.

The mere circumstance of having obtained health department approval, plus the token shipment of milk, is not sufficient justification for equalizing the sales of such plant with the market. There are several different health authorities having jurisdiction in various parts of the marketing area. In the absence of pool plant performance standards, approval by any one of these authorities, or reciprocal acceptance of permits by them, might entitle a plant to participate in the equalization pool. There is no reason to assume that each of these health departments would refuse an application for approval because they had determined that the milk from an applicant plant was not entitled to pool with the market, or that the basis for such refusal would be uniform for each health authority, or that such standards as might be applied for this purpose would be appropriate to effectuate the declared policy of the act.

Since reserve milk is an essential part of any fluid milk business, there will always be some excess milk in the plants of handlers supplying other markets. This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the market may depend. If such plants were allowed to sell a token quantity of milk in the marketing area, and pool their surplus whenever Class I outlets were not available to them, the result would be that such handler could gain an advantage in paying producers through receipt of equalization payments from the pool.

The market, however, would gain no advantage from the payment of equalization to such handler. Such distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

Performance standards are necessary also to avoid unnecessary or undesirable extension of regulation. Full regulation of all supply plants might handicap the market in the business of securing supplemental milk supplies during the months of low production, since unregulated plants would be unlikely to sell one or two tankloads of milk, if such sales resulted in regulation under the proposed order. The record discloses that Central Arkansas handlers nor-The record discloses mally require supplemental supplies of milk to meet their Class I sales in the months of lowest production. Under the proposed order, an unregulated plant may supply some of this milk without mcurring full regulation.

Performance standards should be flexible enough to allow a plant which is primarily associated with the market to maintain its association with the pool under the changing conditions which occur from year to year, and yet not permit the distribution of equalization payments to plants not part of the essential supply. The performance standards herein provided are such that these objectives should be accomplished.

Milk plants primarily associated with other Federally regulated markets, and subject to full regulation under another order, should be exempt from regulation under the Central Arkansas order.

All facilities, premises, and buildings of a milk plant should be considered as part of the same pool plant, regardless of health authority restrictions on the use of any portion thereof. This will enable the market administrator to enforce the order more fully, and assure the assignment of producer milk to all Class I milk disposition from the plant.

If a handler operating a dual plant is disposing of nothing but Class II products from the ungraded portion of his plant, this may have no effect on his milk cost, since the skim milk and butterfat he uses in the nonfluid portion of the plant will be assigned to the Class II dispositions involved. If any Class I disposition is made from any portion of a plant, it should be assigned first to producer milk to the extent producer milk is available. It is not feasible, or necessary, for a market administrator to attempt to follow milk or milk products through a plant to determine which product is used for which purpose. If Class I milk is to be disposed of from any portion of the plant, it is logical to assume that the plant operator would use his best quality product for such purposes to the extent it is available.

Because of the difference in marketing practices, and in demands for supplies of milk from plants which are primarily in the business of distributing Class I milk, as contrasted to supply plants which furnish bulk milk to distributing plants, two sets of performance standards have been provided. These standards, and reasons therefor, are as follows:

In order to qualify as a pool plant, a "distributing plant" should be required to distribute at least 10 percent of its milk from producers and other pool plants during the month as Class I milk on retail or wholesale routes to outlets in the marketing area. Distribution of milk through vendors or plant stores should be included to the extent that sales through such outlets are in the marketing area.

A distributing plant having more than 90 percent of its business outside the marketing area, or in other outlets, should not be considered as essentially associated with the market. It is not considered advisable to bring such a plant under full regulation, in order to control the minor share of its business which is in the marketing area. Full regulation, in such case, would not be necessary to accomplish the purposes of the order, and might well place such plant at a disadvantage in relation to its competitors in supplying the unregulated market.

Such a minimum is necessary, also, to avoid the possibility that a plant other-

wise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distribution of fluid milk, and Class I products should be qualified as pool plants under this definition. In order to preserve this distinction, a further condition is placed on distributing plants that their total distribution of Class I milk on routes to wholesale or retail outlets, both inside and outside the marketing area, must amount to at least 50 percent of their receipts during the month of milk from producers and from other pool plants. Any plant which does not qualify on this basis should be deemed to be primarily a bulk supply plant, and its status under the pool should be judged by the standards applicable to such plants.

Evidence in the record indicates that most plants doing business in the marketing area dispose of their milk in such a way as to exceed, by a considerable margin, the minimum performance standards necessary to qualify as pool plants under this order.

There are, at the present time, no "supply plants" primarily associated with the Central Arkansas market. However, in case a handler should desire to supply the market through use of a supply plant, and bring such plant under the pool, provision should be made in the order whereby this would be possible. The performance standards for supply plants to qualify for pool status should reflect the fact that Central Arkansas is typically a short market. Distributors need all of the milk available from producers in order to keep their Class I outlets fully supplied on an annual basis. In order to assure that all the producer milk which is pooled with the market will be available for Class I sale, percentage standards should be set at levels which require that the milk will be available. If conditions in the market should change so that Class I outlets are adequately supplied with producer milk, and the percentage standards proposed herein are not necessary to assure the availability of such producer milk for Class I sales, the standards should be subject to review.

Under present circumstances, it is concluded that a plant should dispose of at least 50 percent of its receipts of milk from producers in any month in the form of supplemental supplies of milk, skim milk or cream shipped to distributing plants, in order to qualify for pool status. Unless more than half of the milk from such plant is disposed of in this manner, a supply plant should not, under the present conditions in the area, he considered as primarily associated with the market.

It is recognized, however, that the demand for milk from supply plants is rather seasonal. The primary function of most supply plants, particularly those on the fringes of any milkshed, will be to furnish milk to distributing plants during the season of low production. In the months of flush production, supplies of milk received at

plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture, and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the spring and summer to be manufactured, in order to maintain the eligibility of supply plants to pool.

In order to provide for handling the milk in the manner described, a supply plant should be allowed to remain in the pool throughout the year, if it qualifies under the foregoing standards during each of the months of August through January.

The order should provide a definition of "producer" in order to designate the dairy farmers whose milk is to be subject to the pricing provisions of the order. This definition should include any person who produces milk in compliance with Grade A standards, and ships such milk to a plant fully regulated under the order. Because of the widespread use of reciprocal inspections by health authorities, the Grade A mspection of any duly constituted health authority should be considered appropriate to qualify a person as a producer. Any Grade A milk which enters a plant may be distributed for fluid use, and as a result, be subject to the same pricing provisions of the order.

The record discloses that some milk, not needed for Class I use in the area, has been diverted from producer farms directly to manufacturing plants for disposal. This has obviated duplication in handling at fluid plants which are not equipped to manufacture such reserve supplies of milk. Provision should be made in the order, therefore, to allow a handler to maintain milk of regular producers under the pooling and pricing provisions of the order, even though it may be diverted from manufacture during periods of excess supply. Diversion privileges should not be extended during periods of market shortages, since handlers might thereby be enabled to keep milk pooled with the market, even though such milk were not available for Class I use when needed. Excess supplies during the months of lowest production normally occur only on weekends or holidays. Provision for diversion of a producer's milk on no more than 10 days during any of these months should provide adequate opportunity for disposal of excess milk in this period.

Cooperative associations of producers, which qualify as bona fide representatives of producers, and which are authorized to market the milk of member producers, should be allowed the same diversion privileges as fully regulated handlers.

"Producer milk" should be defined in the order to identify the milk received from producers at pool plants. This milk would include milk diverted in accordance with order provisions, and represents the milk which is to be priced. "Other source" milk should be defined as fluid milk (Class I) products received from sources other than producers or pool plants, and should include nonfiuid products, if they are reprocessed or reconverted in a pool plant. The latter products should be included, since they may enter into the Class I market if they are utilized by the plant in the production of other items. Other source milk, therefore, represents the skim milk and butterfat at the plant which enters into the operation in such form that it may be utilized in Class I milk, but which originates from sources not priced as Class I milk under the order.

(b) Classification of milk. Milk received by regulated handlers should be classified on the basis of the form in, or the purpose for which it is used, as either

Class I milk or Class II milk.

The products which should be classified Class I milk are those distributed to the consumer in fluid form. This includes milk, skim milk, cream, and various mixtures thereof, including those flavored or cultured. These are the perishable products which require expedited handling and careful quality control. These are the products which are normally made from milk inspected and supervised from point of production by local health authorities. The extracost of getting approved milk produced and delivered to the market, in the quantities required, makes it necessary to provide a price for milk used in Class I products somewhat above the manufacturing milk price. Through classification, milk utilized for these purposes may be priced in accordance with the needs of the market for maintaining production of quality milk.

Excess milk not needed seasonally or at other times for Class I use, must be disposed of for use in manufactured products. These products are not required to be made from inspected milk and must be sold in competition with products made throughout the country from unapproved milk. Milk so used should be classified as Class II milk, and priced in accordance with its value in

such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream and any mixture of cream and milk or skim milk (except sterilized products in hermetically sealed containers, eggnog, ice cream mix and aerated cream) and (2) not accounted for as Class II milk.

Fluid milk products such as skim milk drinks and buttermilk, to which extra nonfat solids have been added, should be included under the Class I milk definition, and all of the solids therein should be priced at the same rate. Products, such as evaporated or condensed milk in hermetically sealed cans, should not be considered Class I milk, since they may be made from ungraded milk, and need not be handled as the more perishable fresh fluid items.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk solids and butterfat content of milk products re-

ceived and disposed of by a handler, can be determined through testing procedures. Some manufactured products, such as ice cream and condensed products, present a more difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable, in the case of such products, to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator, or by means of standard conversion factors of skim milk and butterfat used to produce such products. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Butterfat and skim milk disposed of from the plant in the form of the aforementioned fluid milk items should be classified Class I milk when they leave the plant, subject to reclassification only in case they are transferred to other milk plants for manufacture, under conditions hereinafter described.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream mix, butter, cheese, cottage cheese; evaporated and condensed milk (plain and sweetened)

and nonfat dry milk solids.

Butterfat and skim milk used to produce Class II products should be considered to be disposed of when so utilized, and will not enter into the classification picture again unless reused or reconverted. Handlers will need to maintain stock records on such products, however, to permit audit of their records by the market administrator to verify utilization in Class II milk. Class II products from any source, including those produced in the plant, which are utilized for further processing or manufacture, should be considered as a receipt of other source milk.

Handlers must be held responsible for a full accounting of all their receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible to the market administrator to establish the classification of, and make payment to producers for, such milk. Except for a normal amount of shrinkage which may be classified in Class II, all skim milk and butterfat which is received, and for which the handler cannot establish utilization, should be classified Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records, and to assure that producers receive full value for their milk on the basis of its use. It is necessary to place the burden of proof on the handler, in order to establish the utilization of any butterfat or skim milk as other than Class I milk, since the market administrator cannot assume primary responsibility for tracing the utilization a handler makes of his milk.

Pool plants normally will have inventories of fluid milk products on hand at the beginning and end of each month.

which must be considered in accounting for current sources and utilization of butterfat and skim milk. Accounting procedure will be facilitated by providing that month-end inventories of all products designated as Class I milk, regardless of whether such products are held in bulk or in packages, should be classified Class II milk. Inventories of products so classified will then be assigned to Class II use the following month. If any fluid milk products, derived from producer milk, are classified Class II milk because they are held in month-end inventories, and then later used in Class I milk, the higher use value should be reflected to producers.

Inventories of fluid milk products on hand at a pool plant at the beginning of any month during which such plant becomes a pool plant for the first time should likewise be subtracted from the Class II utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

Although handlers should be expected to keep complete account of their utilization of skim milk and butterfat, there is normally a certain amount of shrinkage for which no disposition can be shown. The record shows that 2 percent is a reasonable maximum shrinkage allowance based on operating experience.

Shrinkage should be determined by subtracting, from the total pounds of skim milk and butterfat received by the handler, his total established utilization thereof, respectively, in various products. Shrinkage not in excess of 2 percent of the handler's producer milk and other source milk should be prorated on the basis of the pounds from each of these sources. None of the shrinkage should be assigned to milk received from other pool plants, because shrinkage on such milk will be allowed to the transferring handler.

It is concluded that shrinkage of butterfat or skim milk, which is not more than 2 percent of total amount thereof in producer milk and other source milk should be classified as Class II milk, and any shrinkage in excess of this quantity should be classified Class I milk.

Transfers. As pointed out previously, some fluid milk products may be disposed of to other plants for Class II disposition. Classification of any product transferred or diverted to another plant should, under certain circumstances, be determined according to its utilization in the plant to which transferred.

Fluid milk products transferred from one pool plant to a pool plant of another handler, except that of a producerhandler, should be classifled Class I milk, unless both handlers indicate, in their reports to the market administrator, that they desire such milk to be classified Class II milk. However, sufficient Class II utilization must be available at the receiving plant for such assignment, after prior allocation of shrinkage and other source milk as hereinafter de-scribed. On the other hand, if the transferring handler had other source milk during the month, the assignment of products transferred to another pool plant to the Class I utilization of such plant should be limited so that other

source milk in the transferring handler's plant will not be allocated to Class I milk while producer milk is allocated to Class II milk in the receiving handler's plant.

Milk, skim milk and cream disposed of in bulk form to a nonpool plant, including milk which is diverted (sent directly to the nonpool plant from the producer's farm) should be classified Class I milk, unless certain conditions are met. One of these conditions is that the operator of the nonpool plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the source and utilization of milk in such nonpool plant. Provision for verification by the market administrator is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. Classification as Class II milk should be limited to the amounts of such actual use in the nonpool plant.

Class I milk items transferred to a producer-handler should not be subject to reclassification, since such handlers normally purchase these items strictly for Class I use. Milk received from producer-handlers should be treated as other source milk, since such milk is

The class prices of the order apply only to producer milk. It is necessary, therefore, if a plant has butterfat or skim milk other than that received in milk from producers, to determine the quantities of milk in each class to be assigned to producers. The milk of producers (as defined under the order) who are primarily engaged in supplying the Central Arkansas market, should be assigned to Class I utilization first. This is necessary to insure the stability of the classified pricing program. If the order permitted handlers to obtain other source milk for Class I use, whenever it was advantageous to do so, while producer milk in the plant was utilized in Class II milk, the order would not be effective in carrying out the purposes of the act. Also, the market might be deprived of a dependable supply of quality milk. Class II items utilized in reprocessing or manufacturing at the plant during the month will also be assigned as other source milk. This will mean that such products also will be allocated first to Class II use. thus maintaining priority of assignment for current receipts of producer milk to Class I sales. The system of assigning utilization of milk to receipts from dif-

attached order.
Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month. Some variations in utilization and importation of other source milk may occur from day to day throughout the month, but all handlers will be on an equal basis in this respect.

ferent sources which will carry out this

objective is set forth in § 908.45 of the

(c) Class prices. Class I prices should be established at a level which, in conjunction with the Class II prices hereinafter concluded to be appropriate, will result in returns to producers high enough to maintain an adequate, but not excessive, supply of quality milk to meet the fluid requirements of the marketing area.

The maintenance of stable conditions in the market requires that Class I prices be adjusted whenever the supply of milk so out of line in relation to sales of milk for fluid use. If prices remain too low, insufficient quantities of milk will be produced to assure that the Class I market will be fully supplied. Conversely, if prices are too high, production will be overstimulated and consumption curtailed. This would cause more milk to be produced than is needed to satisfy the demand for Class I milk, resulting in the development of unnecessary and uneconomic surpluses.

When milk produced locally is insufilcient to meet the Class I needs of the market, supplemental supplies of Grade A milk are purchased by handlers in the Central Arkansas area from plants located over a wide geographic area. Prices of this milk fluctuate to a considerable extent on the basis of changes in the value of milk produced for manufacture. Other items which determine the prices at which such milk will be available to Central Arkansas handlers include the cost of transporting such milk to the marketing area, and other Class I outlets for it, such as sale to surrounding markets.

Proper recognition must be given the prices at which alternative sources of supply are available, especially since any milk plant wherever located may, by meeting the prescribed qualifications, become a pool plant under the order. It is necessary, therefore, that the Class I price under the proposed order should not be set at levels which will bring the cost of such milk above the cost of obtaining Grade A milk supplies regularly from other sources.

It is concluded that the Class I price for the Central Arkansas area should be fixed in relation to the general level of the value of milk used to produce manufactured dairy products. To achieve this end, a basic price formula should be adopted which will reflect such general level, and to which differentials should be added to reach the appropriate Class I price. Such basic price should be the higher of (a) the average of the prices paid by the 13 "Midwestern Condenseries," (b) a price computed on the basis of the daily quotations for 92-score butter at Chicago and prices paid for nonfat dry milk solids f. o. b. manufacturing plants in the Chicago area or (c) a price based primarily on the value of milk used for cheese manufacture.

The purpose of such basic price is to give consideration to the national economic factors underlying the price for milk for manufacturing uses, which prices, it has been determined, influence the local market prices. Prices for milk used for fluid purposes in competitive markets are related to the prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is countrywide, prices

of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. Fluid markets are affected to a large extent by these conditions in that producers may and do shift between ungraded and graded milk production. It is for these reasons, most of the fluid milk markets from which Central Arkansas handlers may purchase alternative, or supplemental milk, or to which they sell milk have Class I pricing formulas based on butter, nonfat dry milk solids, and cheese prices, or the prices paid by condenseries subject, in each case, to differentials over these basic or manufacturing prices. Such differentials are those considered appropriate in each case to cover the cost of meeting quality requirements in the production of adequate supplies of market milk, and transportation costs to the particular fluid market.

The alternative prices in the basic formula proposed herein are the same as those used under the Memphis, Tennessee, order and are similar to those used in many other Federally regulated markets. The price computed under this basic formula averaged \$3.57 for 1954.

Memphis is the market with which Central Arkansas handlers are in primary competition. As pointed out here-tofore, one major handler serving the proposed area sells nearly half of his milk on routes to the Memphis market. One other large handler in Little Rock has sold substantial volumes of milk to contract outlets as well as on retail or wholesale outlets in the Memphis area. The evidence does not indicate, however, that any Memphis handler distributes milk in the Central Arkansas area.

The price received by Central Arkansas producers for 4.0 percent base milk under the association's contract with handlers averaged \$5.12 for the year 1954. The record indicates that this is not a true cost for Class I milk however, since all producer milk utilized by handlers as Class I milk was not paid for at the base price. Excess prices were somewhat below \$3.00 most of the time.

The hearing record does not contain complete data which accurately reflect the receipts and sales of fluid milk in the Central Arkansas area. It appears clear, however, that prices which have prevailed in the area have not resulted in milk production sufficient to meet Class I requirements at all times during the year. It is questionable, on the other hand, whether the system of milk purchasing which has existed in the market has been fully effective in encouraging maximum. milk production at the prices actually paid. In the absence of adequate data, and because the previous price and supply history of the market cannot be fully relied upon, it is not possible to arrive at an appropriate Class I price for Central Arkansas on the basis of local experience alone. However, because of the large degree of sales competition between the Memphis and Central Arkansas markets, and because of the general location of both markets in relation to other supply and sales areas, it is concluded that for the present at least, the same stated Class I differentials over basic formula price should be provided for Central Arkansas as are provided for the Memphis market. Handlers in the two markets compete not only for Class I sales in the Memphis area, but both markets often require substantial volumes of supplemental milk. Handlers from both areas may be expected to purchase such milk on the same general competitive market. The distance of the two markets from alternative supplies is in general approximately the same.

The pricing formula proposed herein will result in the same price for the two markets, except that the Memphis order contains a supply-demand provision which adjusts the price under that order in accordance with local shortages or surpluses. While the hearing record discloses some need for a similar provision in the Central Arkansas area, data presently available do not provide an adequate basis for drafting one which could be expected to adjust Central Arkansas prices in line with local market needs. It is concluded, therefore, that for the period through August 1956 a Class I differential of \$1.28 for the 6 months of highest production and \$1.68 for the months of lowest production should be provided. Data which became available during this period should then be reviewed to ascertain whether a supply-demand adjustment or some other provision would be appropriate for fixing a Class I price in line with the needs of the market.

Class I prices should be announced by the market administrator by the fifth day of the month. In order to do this, it is necessary to use price quotations for the preceding month in calculating

the basic formula price.

Class II price. The Class II price should be at such a level that handlers will accept and market such quantities of milk in excess of Class I needs as may arise from time to time. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

In order to have an adequate supply of producer milk in the fall and winter months, handlers normally accept surplus milk from producers during the months of flush production. Outlets for Class II milk disposed of during the flush production season generally are not as favorable as those available in the fall of the year, when the supply of producer milk available for Class II is lower. With a limited supply of milk for Class II, the market for those products which will command the best return are served first. Such outlets may include cottage cheese and eggnog for which fresh quality milk is particularly desirable. During those months of high production, when the supply is excessive, large quantities of milk are disposed of for use in those products which are least profitable or may actually result in a loss to those handlers receiving milk from producers. Frequently there are additional hauling costs because of inadequacy of local processing facilities.

The record indicates that only minor quantities of excess Grade A milk are produced in the Central Arkansas area during most months of the year. Dur-

ing those months when some excess milk is available, the milk is disposed of locally or to nearby outlets. Such milk is disposed of primarily to the same general market or in competition with excess milk from the Fort Smith market.

The record shows that much of the excess milk which is produced in Central Arkansas is diverted directly into local manufacturing plants for disposal, without involving extra haul. It appears, therefore, that prices paid by such local manufacturing plants represent a reasonable minimum price for such milk. It is concluded that during the months of February through July, when most of the excess is produced, the Class II milk price should be the average of the prices paid producers for milk testing 4.0 percent butterfat by the Sugar Creek Creamery at Russellville, the Ozark Creamery Co. at Ozark, and the Pet Milk Co. at Siloam Springs, all in Arkansas. This is the same price as fixed for Class II milk during these months under the Fort Smith order.

During the remaining months of the year, when there is very little excess milk available, such milk should be priced on the basis of the foregoing price plus 25 cents, provided that such price shall not exceed the basic formula price.

Butterfat differentials. As pointed out previously herein, it is concluded that butterfat and skim milk should be accounted for separately for classification purposes. It is necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average butterfat test of milk in each class by a differential which will reflect differences in value due to variations in the butterfat content of each product.

It is concluded that the values resulting from multiplying the average price of 92-score butter at Chicago each month by 0.120 will provide an appropriate basis for adjusting the price for Class I milk in this market. The butterfat differential to be used in adjusting the Class II price should be calculated during the months of lowest production by multiplying the Chicago 92-score butter price by 0.115 and during other months by 0.110.

The foregoing butterfat differentials are generally in line with those prevailing in other surrounding markets and will place Central Arkansas handlers on an approximately equal basis in this respect with their competitors. The proposed seasonal variation in Class II differentials will serve to properly pro rate the Class II price heretofore found appropriate for the different seasons between the butterfat and skim milk components of the excess milk. The basing point from which butterfat adjustments are made should be 4.0 percent butterfat. This is the basic test now used by all handlers serving the proposed marketing area. The use of butterfat differentials in this manner follows standard practices in most fluid milk markets for adjusting for butterfat variations.

In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This

will permit the announcement of the Class I differential at the same time that the Class I price is announced. Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will not know the price of Class II milk as it is utilized, they will know that their cost will follow that of their principal competitors for manufactured milk outlets,

Location differentials. To the extent that producer milk is received at plants located some distance from the market, the handlers purchasing such milk should be allowed a lower Class I price. The reduction in price should be based on the distance from the central market to the plant where the producers deliver the milk. Milk located at a distance from the market has less value to the market. If handlers did not assume the costs of moving milk to the market they must otherwise be borne by the producer, since the producer would be compelled to meet such costs, if he were to sell this milk in the market. The value of a producer's milk is therefore deemed to be less than the central market price by the amount it costs to transport such milk to market.

It is concluded that the price of milk used for Class I disposition should be reduced for plants receiving such milk more than 60 miles from the central market. The transportation allowance for such plants should be 10 cents per hundredweight of milk plus 1.5 cents for each additional 10 miles, or fraction thereof, that such plants are from the primary center of consumption in the proposed area. Benton, Arkansas, is centrally located to the primary sales areas of the proposed marketing area, and is therefore proposed as the basing point for location differentials. The rate of location differential adjustment herein provided, is based on the approximate cost of hauling milk in bulk tank lots. which is the most efficient method generally available in the area for transporting milk. Handlers should be expected to make any necessary movements of milk to market by the most efficient means available. The transportation differential rates herein provided are representative of those prescribed in other Federal milk marketing orders, and are based on actual cost of hauling milk as shown in the hearing record.

The class prices for milk proposed in the attached order are designed only to price milk at its value in relation to the marketing area to be regulated pursuant to the proposed order. Milk may have greater or lesser value than reflected by these prices if marketed in one of the many markets throughout the South Central states which would not be subject to this order. It would not be administratively feasible, however, to provide a different price for each lot of milk according to its ultimate destination. To attempt to do this would be unsound also, in that it would make producers bear the cost of hauling beyond the central market, and thereby remove from handlers the incentive to market milk at the location where it will yield its greatest net return.

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No adjustment should be made in the Class II price because of differences in location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices shown in the record, paid for ungraded milk received at various sections of the milkshed, do not indicate any difference m value associated with location. Class II milk should not be hauled to the central market for manufacture if there are more convenient facilities available.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk to the best advantage. Prices paid producers for such milk should not be made dependent upon the method employed by the handler in disposing of such milk, otherwise part of the incentive for keeping handling cost at a minimum is removed. To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after prior assignment of other source milk.

Compensatory payments on unpriced milk. The class prices heretofore described apply only to that milk received at pool plants from producers. As previously mentioned in connection with the findings and conclusions concerning pool plant standards, milk may be disposed of for Class I use in the marketing area by or from plants which are not fully regulated. Any plant which is not fully subject to classification and pricing is not required to pay producers for milk m accordance with the utilization made of the milk.

Milk from unregulated plants may be sold as Class I in the regulated area through distribution directly to consumers on routes operated by such plants, or it may be received in bulk form from such plants by pool plants which use it in supplying their own Class I outlets. The proposed order does not prohibit any plant, whether it has pool status or not, from selling milk in the marketing area. nor does it specify where any plant must purchase its milk.

The primary purpose of the order is to provide a classified pricing system, whereby the producers primarily engaged in furnishing milk for sale in the marketing area will be paid for such milk according to its utilization. It has been pointed out previously herein, that payment of a premium or differential for milk used in Class I is necessary to encourage adequate production of quality milk needed for fluid use. Such higher prices cannot be maintained, however, unless the Class I market is protected from the competition of reserve, or excess milk. Due to irregular variations in production and consumption each fluid milk market needs to have some reserve

milk production available to insure that supplies will be adequate at all times for Class I use. The volume of this recerve milk normally is largest in the spring months of flush milk production. That quantity of milk which is in excess of the Class I sales each day must be marketed in manufactured outlets. Such milk is of the same quality and is available, except under a classified pricing program, for disposition as Class I milk.

Since milk returns somewhat less if manufactured than if sold for fluid use, a natural pressure develops for handlers to attempt to obtain Class I outlets for all their excess milk even though this may mean a return of somewhat less than a reasonable Class I price on a portion of the milk. Since all milk cannot be marketed in Class I, the tendency is for fluid milk prices to be forced down toward the level of the manufactured milk price. The purpose of compulsory classification and pricing is to provide that price competition from such excess milk may not break the market for Class I milk, and destroy the premium prices necessary to encourage Grade A production.

A classified pricing system as proposed herein can be effective, however, only in controlling the milk of those producers and the plants which by virtue of their primary association with the market, are fully subject to the order. Such regulation is not applicable to and therefore not effective in protecting the Class I market from sales by plants not primarily associated with the market. Since unregulated plants may under some circumstances sell up to half of their milk in the market without incurring regulation, it would be possible for such plants to dispose of considerable volumes of surplus or reserve milk to Class I outlets in competition with the handlers who must abide by the classified pricing program. Such a situation obviously would be characterized by instability. It is necessary, therefore, to provide some protection for the Class I market in addition to that afforded by the classified pricing program as applied to fully regulated plants.

In the absence of any direct control over the pricing of milk from unregulated plants, it is necessary to provide an alternative method of bringing such milk under the classified pricing system without subjecting the originating plant to full regulation. The method provided in the attached order consists of a compensatory payment with respect to unpriced milk utilized for Class I sales. This payment should have the effect, so far as the market is concerned, of classifying the milk as Class I, in that it will remove the cost advantage, which an unregulated plant would have in disposing of unpriced milk, to the regulated Class I market. At the same time, such a payment will involve no extension of regulation.

It is important that the rate of compensatory payment used to bring the unpriced milk into line with the Class I market be appropriate to market conditions. It must not be so low that it will permit a handler to have temporary or permanent advantage through sale of unpriced milk as Class I in the marketing area. It should not be so high that it will penalize suppliers of unpriced milk who offer supplies needed by the market and who are not in a position of gaining an unfair advantage through the sale of such milk. The payment must be provided for in a manner which is administratively feasible and which does not bring about unjustified administrative inconvenience or expense.

Several methods were described on the hearing record for determining what rate of payment would be appropriate for bringing the unpriced milk under the classification program. One of these is to ascertain the actual cost to the regulated handler of milk which he purchases from unregulated plants and charge as a compensatory payment any amount by which the Class I price exceeds the cost of the unregulated milk used in Class I. Such a scheme is not sound from the standpoint of administrative feasibility and it would not necessarily remove the advantage in using unregulated mill: even though it were feasible. Rates at which milk sales are billed may not represent actual cost to the purchaser. In the case of a firm which owns or controls a pool plant under the Central Arkansas order as well as unregulated plants, the price charged for milk transferred from unregulated plants would have little or no significance. The billing rate, if any, between such plants might be deliberately set without regard to the value of the milk at the level necessary to avoid any payments. Thus, the intended effect of such an order provision might be circumvented by merely adjusting the bookkeeping procedure.

A handler having no unregulated plants may find it possible to arrange a billing price on purchased milk which would avoid any compensatory payments. A kick-back arrangement or offsetting purchase and sale might readily be arranged, perhaps through a third party. Since the billing price for milk would be a self-serving figure for both parties to the transaction, it would be virtually impossible to ascertain that it represented the true cost to the purchaser. In any case, if a handler had the choice of paying money to the market-wide pool or to a person from whom he was buying milk, he would probably choose the latter.

If the stated purchase price were a true cost, it would still not fulfill the purpose of removing the advantage to unregulated milk to base compensatory payments on the difference between such price and the Class I price. The record discloses that sales of priced milk between regulated handlers ordinarily take place at the class price plus a handling charge. This handling charge varies according to circumstances, but represents a payment to the receiver of the milk to offset his purchasing and receiving costs, such as dumping, weighing, testing and cooling the milk, and paying producers. The cost of receiving the milk in bulk form is somewhat less than receiving it from producers. Thus, in order to remove the advantage to unregulated mills, it would be necessary to provide that the cost of bulk unregulated milk be somewhat more than the Class I

price. It would be exceedingly difficult to determine what this excess rate should be, particularly in the case of products such as condensed skim milk and cream, where the allocation of additional processing costs among more than one end product is involved. Furthermore, it would be unsound economics to charge handlers on the basis of costs. This would remove the incentive for a plant to be efficient, or to purchase milk from the most economical sources, and would place the administration of the order program in the position of determining rate of profits for individual concerns. The position of distributors in relation to their competition should be determined by their efficiency, and not through recognition of individual costs.

Suggested-methods of fixing compensatory payments on the basis of the cost of unpriced milk as reflected by prices paid producers are also considered unacceptable. In the absence of price enforcement, it is impossible to determine actual rates of payment by unregulated plants to producers or to know what portion of such payments should be attributed to any particular lot of milk. Producers are normally paid blend prices, which may be influenced if the occasion arises by various unrealistic charges or credits for services or supplies. In any event such prices are probably only averages reflecting usages in fluid and surplus outlets with widely different values.

The only practicable method suggested for dealing with the problem of calculating an appropriate compensatory payment is one based on a recognition of the market values which affect the purchase and sale of unpriced milk. Fully regulated handlers under the order seeking to purchase unregulated milk may be expected to seek out the lowest cost source from which suitable milk is available. In fixing the rate of compensatory payment, it is necessary, therefore, to determine what the lowest cost source may be and to base the payment on the difference between the cost of such milk and the cost of milk priced under the order for similar use.

The record shows that milk supplies are invariably larger in surrounding markets in spring and summer than in fall and winter, and that because of relatively constant sales of fluid milk, the excess or increased production must be marketed largely as manufactured products. Sale for manufacture, therefore, represents the opportunity cost of this surplus milk during the months of flush production since it is the highest price at which the milk can otherwise be sold. The opportunity cost or value will normally be effective in determining the price at which the unregulated plant would sell such milk. Under the foregoing circumstances, the minimum asking price of the unregulated supplier of such milk probably would be the return which he would realize if the milk were disposed of for surplus use. Since considerable volumes of Grade A milk must be disposed of as surplus by various unregulated plants from which Central Arkansas handlers may obtain milk, it is evident that milk could be obtained at prices reflecting its value as surplus.

For the months of January through August, during which period surplus milk may be available in substantial volumes from nonpool sources, it is concluded that the compensatory payment on other source milk or milk products used for Class I sales should be based on the difference between the minimum price of Class II producer milk and the applicable Class I price under the order. The Class II price established by the order appears to be a fair and economic measure of the value of milk for surplus uses in the Central Arkansas area.

During the months of September through December, when milk supplies tend to be shorter, it is concluded that other source milk will not be available to handlers in the Central Arkansas market at surplus prices. It is concluded that during these months the compensatory payment should be based on the difference between the Class I and the blend prices under the order. Generally speaking, during these months the relationship between the supply of milk in the general area and the demand for such milk will tend to fluctuate considerably from year to year, according to production and demand conditions. It is concluded that these fluctuations will generally tend to be similar in Central Arkansas and surrounding milksheds. Thus, the rate of compensatory payment based on the difference between Class I and blend prices will adjust itself automatically in these months, according to the changes in demand for and prices of outside supplies. If supplies of producer milk are relatively plentiful, unpriced milk can be expected to be cheaper, and therefore, the rate of payment should be somewhat higher. On the other hand, as milk supplies in the area tend to be short, it is to be expected that the cost of unregulated milk will Under these circumstances. increase. the rate of payment will be correspondingly less.

By choosing a rate of compensatory payment which reflects the most economical cost of other source milk which may be expected to be available to regulated handlers, any advantage to one handler relative to the others, in obtaining such milk and substituting it for producer milk in Class I, is removed insofar as administratively possible and no handler is given the clear opportunity to gain an unfair advantage which otherwise would exist.

In calculating the payments on other source milk, the Class I price must relate to and be fixed as of the point where the milk is received from farmers, so as to be properly comparable with minimum class prices which apply to producer milk at that level of marketing. No allowance should be made for subsequent handling costs and profits in this farm level comparison between producer and other source milk because such costs and profits are involved at subsequent stages of marketing of the producer milk as well as other source milk. Prices at subsequent stages of marketing are not regulated by the order either with respect to producer milk or other source milk. No adjustment for location is necessary with respect to the Class II price,

or for manufactured milk items for the same reasons described heretofore in connection with the findings concerning the need for location differentials with respect to the producer milk used in Class II outlets.

Testimony in the hearing record concerning availability of milk supplies to Central Arkansas handlers indicates that the rate of payment proposed herein will tend to equalize the competitive position of priced and unpriced milk, and will avoid displacement of producer milk for reasons of cost. However, if experience proves that milk is available to handlers for Class I use in the future at prices different than those now indicated, or that the proposed compensatory payments otherwise interfere with the purposes of the order, then it will be necessary to reconsider the rate of such payment on the basis of that experience.

The rate of payment provided for nonpool plants making distribution directly in the marketing area should be the same as that for pool plants which obtain and use unpriced milk in Class I. The administrative feasibility of any other method of levying compensatory pay-ments and the economics involved are substantially the same as that in the case of unpriced milk used for Class I purposes by pool plants.

No payments should be required on milk classified and priced under another Federal milk marketing order. Since handlers operating plants under other Federal orders must pay for producer milk on a utilization basis, they would not be in a position to dispose of any surplus producer milk into the Central Arkansas market for Class I use without accounting for it at the Class I price.

The minimum prices for Class I milk under other Federal orders where Central Arkansas handlers might obtain supplemental supplies approximate or exceed the Class I prices herein recommended as adjusted for location of the supplying plants and handling costs. The record indicates that the best method for dealing with intermarket relationships between regulated markets is through appropriate price alignment. The Class I price herein proposed is deemed to be in appropriate alignment with other regulated markets. The closest Federally regulated market from which substantial volumes of supplemental milk might be available is the Ozarks market. The primary plants of this market are located in Springfield, Missouri. The record indicates that transportation costs from Springfield to Little Rock amount to 42 cents per hundredweight of milk. The average Class I price for the Springfield plants during 1954 was \$4.43 for milk testing 4.0 percent butterfat. This price plus indicated transportation cost would result in a price of \$4.85 f. o. b. Little Rock.

The recommended Class I price formula for Central Arkansas would have averaged \$5.05 during 1954. The difference between these prices f. o. b. Little Rock of 20 cents is considerably less than the usual handling charges with respect to such milk as presented for the hearing record. The recommended price is less also than the average cost of Class I milk under other orders including the Chicago order plus freight.

The proposal for a compensatory payment on Class I milk received from other regulated markets was based primarily on reported sales to the Little Rock area by cooperative associations at prices which returned less than the cost of such milk under the order from which it came plus transportation costs. To the extent this is true the suggested payment of the amount by which Class I prices under the two orders differ would not be appropriate to deal with such a problem in any case.

If other Federally regulated plants selling milk into the Central Arkansas market have Class I sales in excess of producer milk at their plants, the proposed compensatory payment should be applicable to such milk to the extent it is marketed for Class I in the Central Arkansas area. The effect of such milk on the market price structure in Central Arkansas would be no different than if the milk were received directly from an unregulated plant by a regulated handler.

(d) Distribution of proceeds to producers. Returns from the sale of milk in various classes should be distributed to producers on the basis of a market-wide equalization pool. Such a pool will provide that each producer supplying the market will receive a return based on his pro rata share of the Class I sales of the entire market.

The primary problem of the Central Arkansas market, with respect to pooling, is one of providing a means under the order for facilitating the establishment and maintenance of adequate and regular sources of milk to supply the needs of the market. Under a marketwide pool, the prices set by the order should be effective in determining the level of milk supplies, since the price incentive to producers to supply milk will be allowed to operate freely. Those producers producing milk most efficiently would serve as the source of supply. Additional producers may readily be added if they care to produce milk at the prices prevailing under the order. This will avoid an undesirable situation where producers might be selectively dropped from the market, or others would be denied a market, even though they might be willing to produce and ship milk at the prices being paid.

The record indicates also that some of the excess milk of the market has been marketed by a cooperative association of producers. The producers whose milk was so marketed were needed in the market during most months of the year. The marketwide pool will permit equal sharing of such excess milk among all producers. Class II pricing and pool plant standard provisions proposed herein should assure that all available milk will be offered for Class I sale as needed even though any handler's producer pay price in relation to that of other handlers will not be affected by the use he makes of milk.

The uniform price including base and excess prices which are required to be paid producers under the order should be computed for milk containing 4.0 percent butterfat.

In distributing proceeds to producers, a differential should be applied to recognize differences in value of milk because of variations in butterfat content. The butterfat differential used in making such payments to producers should be calculated at the average of the return from the sale of butterfat in producer milk as reflected by its utilization at class prices. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Calculation of the producer butterfat differential in this way does not affect the handlers' cost of milk, but merely prorates returns among producers whose milk differs in butterfat test.

The record indicates that the average butterfat test of producer milk in Central Arkansas exceeds that of Class I sales. The butterfat differentials proposed herein for Class I and Class II milk should tend to encourage the production of milk with butterfat content more in line with the requirements of the market.

Location differentials heretofore discussed should be applied in making payments to producers who deliver their milk to plants located at a distance from the central market. The reduction in price reflects the cost of hauling the milk to market by the most efficient means available. The rates to be applied should be the same as those found necessary for Class I milk.

Payments to producers. The order should provide that each handler make final payment to each producer for milk received at the appropriate uniform price(s) on or before the 15th day after the end of each month. Since it has been the practice in this area for handlers to pay producers semi-monthly, provision has been made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of such month at not less than the Class II price per hundred-weight for the preceding month. No adjustment for butterfat content or location is required on such advance payment.

Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions for goods or services furnished, or for payments made on behalf of the producer.

The order should provide that handlers shall, if so requested, make payment directly to qualified cooperative associations for milk received from producer members of such association. This provision is necessary to enable producer cooperative associations to carry out their essential functions as authorized by the act.

The successful operation of any classified pricing program and of a milk marketing order is dependent in large measure upon the cooperative marketing activity of producers supplying the market.

The collective marketing activities of cooperative associations are of benefit not only to member producers, but also to producers not members of the association who are able to market their milk in a stable and orderly market at prices comparable to those received by associa-

tion members. Under such marketing conditions, all producers are assured that they will be paid for their fair share of the fluid milk sales. They are assured, also, that their milk will not be displaced with milk purchased from other producers at lower prices than they receive. The stable and orderly marketing conditions which may be achieved and maintained by cooperative action of producers likewise are of benefit to consumers and distributors in that they foster a dependable supply of pure and wholesome milk.

In order for a cooperative association to be able to carry out these functions, it is important that such association have full authority and not be impeded in collective bargaining and in selling milk. In order for a cooperative association to be able to market milk effectively and distribute returns therefrom to producer members, it may be necessary for them to receive payment for such milk. Thus, payments to all members of the association may be made in accordance with the association's pooling program authorized by the act. Under the authority of the Marketing Agreement Act, payments may be received by a cooperative association on behalf of its members for milk caused to be marketed by the association.

The record indicates that a cooperative association representing a majority of the producers supplying Central Arkansas handlers is active in marketing producer milk as Class II during the months of flush production. The milk of these producers is needed to supply the Class I requirements of the market during the fall months. Not all of the milk so marketed may be moved at the Class II price. On other occasions, the cooperative may market milk for Class I use. The activities of the cooperative association in disposing of producer milk may result in financial losses or gains to the association. These activities benefit the entire market through increased stability and maintenance of class prices under the order. However, unless the association is in a position to share any such losses or gains over the entire membership, it will impair the association's ability to continue marketing milk in this way. It would not be practical for the association to maintain an orderly marketing program and keep all members on an equal footing in this respect unless it collects for the milk which it sells for all its members and distributes payments to such members. The association also has members not in the Central Arkansas milkshed. The milk of such members is sold to plants which will not be regulated under the proposed order. Returns on this milk may vary from time to time and may be different than that reflected by the blend price. It may be necessary for the association to be in a position to equalize returns between members who are producers under the order as well as members not selling under the order. This would not be possible unless the association received payment for milk of its members marketed to regulated handlers.

At the time handlers make payment to producers or to cooperative associations for milk they should be required to furnish each such producer or cooperative association with a statement. This statement should show the pounds and butterfat tests of milk received, together with the rate or rates of payment for such milk and a description of any deductions claimed by the handler.

Base and excess plan. A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the market-wide pool.

Base and excess plans in one form or another are now used generally throughout the milkshed area, although these programs vary somewhat. They have been used as a means to overcome the widespread tendency of milk production to vary widely from one season to the next. Because the rate of fluid milk consumption is comparatively uniform throughout the year it is desirable that an even flow of milk production be achieved which will avoid alternating excesses and shortages of milk.

The base and excess method of distributing milk returns during the months of flush production has been in effect for considerable time in the Central Arkansas area. In spite of this fact production of milk in the area still shows considerable seasonal variation. Consequently there is a need for continued incentive to maintain production in the fall and winter months relative to spring and summer levels. Abandonment of the base-excess plan at this time might result in increased seasonality of production to the detriment of the market.

By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter, as compared with deliveries during the season of flush production, a production pattern more closely fitted to the sales pattern of fluid milk products is encouraged.

The base-excess plan proposed herein would establish for each producer in the market a base equal to his average daily deliveries of milk during the fourmonth period September through December (total deliveries of milk by such producer to all handlers divided by the number of days in this period)

For each of the months of February through July, separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allocated to "base milk." A producer's base milk for any of these months would be that quantity of milk he delivered during the month which is not in excess of his average daily base multiplied by the number of days in the month. The base price would reflect the sale value of such milk at class prices with Class I sales assigned first to the base milk and then to excess milk. The "excess milk" price would be the minimum order Class II price unless Class I sales exceed base milk in which case such excess sale of Class I milk would be reflected in an excess blend price.

It was proposed at the hearing that the base operating period, during which payment for milk would be pooled separately for base and excess milk, be extended to eight months. It is concluded that a base operating period which covers the months of February through July is sufficient to accommodate the

needs of the market. Surplus milk is not available in sufficient quantities during the additional two months to justify extension of the base plan to such months. Also, under the proposed plan needed flexibility will be provided. Omission of August from the base operating period will allow time for producers to adjust their production programs in advance of the fall shortage months, without being influenced by the base plan operating during this month. Also, limitation of the base forming period to fewer months gives added incentive to increase production during the more critical months of short supply. The proposed months for establishing bases (September through December) are normally those of relatively low production in relation to fluid sales.

A producer should be permitted to transfer his entire base to any other dairy farmer so long as the transfer is made as of the first of the month and with advance notice. This will alleviate hardship and will not defeat the purpose of the base-excess plan, which is to encourage level production. Under the base plan the producer has an incentive to increase fall and winter production so he may enjoy a larger share of the Class I market during the following season of high production. Transfer of bases, as proposed herein, will give added assurance to a producer that he will have the full benefit of any base he is able to build, whether or not he is able to continue milk production for his own account through the following additional certainty This spring. should increase the effectiveness of the base-excess plan in encouraging production of milk during the base forming period.

Free transfer of bases was proposed to alleviate possible hardship cases which may arise when a dairyman needs to discontinue milk production before the end of the base operating period. Permission for transfer of entire bases will ac-The hearing complish this purpose. record discloses no need for transfer of partial bases in the Central Arkansas area. Permission for transfer of partial bases would result in considerable administrative difficulty, and would tend to defeat one purpose of the base-excess plan, namely, the encouragement to each producer to adjust his own production pattern to the Class I milk sales pattern of the market. Also, partial transfers would facilitate arrangements whereby producers might attempt to gain regular financial advantage by disposing of any portion of their base which they could not use themselves. Splitting of jointly held bases should not be permitted since such splitting in conjunction with the free transfer provision could readily be used to effectuate transfer of partial bases: Either partner should be allowed to take over an entire base jointly held.

Bases should be transferred by the market administrator only as of the first of the month, and only upon advance receipt of a statement, on approved forms, indicating the holder of such base and the person to whom the base is to be transferred, and signed by both parties.

It was proposed that a cooperative association be assigned the collective base of its members so that such base might be pooled. Under this arrangement any under-base deliveries by one member could be used to benefit other members who delivered over-base milk.

This proposal does not conform with the primary purpose of the base rating plan, namely to encourage even production. There is little reason to believe that any individual producer member of an association would make a serious effort to increase fall production solely for the benefit of the other members. Nor does the fact that other members would receive base prices for over-base deliveries appear to give them added incentive to level production. It might in fact have the opposite effect.

The order should provide that the market administrator will notify each producer, and the handler to whom he is currently selling milk, of the amount of his daily base on or before January 25 of each year. The daily base established by each producer will be calculated by the market administrator from handlers' payroll records.

(e) Other administrative provisions. Certain other provisions should be included in the order to carry out administratively the purposes of the regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Such other terms as are defined in the attached order are common to many other Federal milk orders.

Market administrator Provision should be made for the appointment by the Secretary of an agency known as the market administrator to administer the order, and setting forth the powers and duties for such agency.

Records and reports. Provisions should be included in the order for the purpose of requiring handlers to maintain adequate records of their operations and to make certain reports as necessary to carry out the classification and pricing of milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator. The following schedule will afford interested parties adequate time to perform the indicated function:

Day of Month and Function

5th—Announcement by market administrator of the Class I price and Class I butter-fat differential for the current month.

5th—Announcement by the market administrator of Class II price and Class II butterfat differential for preceding month.

7th—Monthly report to the market administrator, by handlers, of sources and utilization of skim milk and butterfat for the preceding month.

7th—Handlers report to cooperatives to which payments are to be made, the pounds of milk and butterfat content thereof received daily, from member producers, and total for the month and the amount and nature of deductions made.

11th—Announcement by market administrator of uniform price and the producer

butterfat differential for the preceding month.

12th—Report by the market administrator to cooperative association the percentage of producer milk delivered by members which was used in each class by the handler receiving such milk.

15th—Final payments by handlers to producers for milk received during preceding month and payments for marketing services. 20th—Submission of producer payroll report by handlers for preceding month.

25th—Report by handlers of the amount of milk received from producers during the

first 15 days of the month.

Last—Partial payments to producers for milk received during first 15 days of the month.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator, or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order.

In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of their intention to import other source milk, and to divert producer milk. Such information, on a marketwise basis, may assist handlers in locating local sources of producer milk, and expedite the transfer of such milk among handlers. Advance information concerning diversions will facilitate check testing and weighing of producer milk at the location where received.

It is necessary that handlers retain records which prove the utilization of milk and to establish that proper payments were made producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F. R. 444) That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Producer-settlement fund. Provision should be made in the order for the establishment of a producer-settlement fund. Such fund is necessary for clearing payments between handlers in connection with marketwide equalization of utilization. Money received from handlers with higher than average Class I utilization and paid to those with utilization below average should move through the fund en route to producers.

A small balance should be retained in the fund to permit clearing of accounts

with handlers in connection with audit and reflect accurate weights and tests of adjustments discovered during the such milk. To accomplish this fully, it month.

To accomplish this fully, it is necessary that the butterfat tests and

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 4 cents per hundredweight, or such lesser amount as the Sccretary may, from time to time, prescribe, on (a) producer milk (including such handler's own production) (b) other source milk in a pool plant which is classified Class I milk, and (c) Class I milk disposed of in the marketing area from a nonpool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by most handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute Class I milk in the marketing area. These plants must be checked periodically to verify their status under the order and to check the accuracy of compensatory payments required. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such periodic checks.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 4 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the initial rate of 4 cents per hundredweight without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers, such as verifying tests and weights and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is need for a marketing service program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order,

and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. As previously discussed, detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such service, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing service. Comparison of the number and distribution of the plants involved, and the volume of milk at such plants with similar conditions in several other markets in the area now under Federal regulation, leads to the conclusion that this will reflect the maximum cost of such service. If later experience indicates that marketing service can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Written arguments and proposed findings and conclusions submitted on behalf of interested persons were considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that the proposed findings and conclusions differ from the findings and conclusions contained herein, the specific or implied requests to make such findings are denied because of the reasons stated in support of the findings and conclusions in this decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is

not included in this decision because the regulatory provisions thereof would be identical with those contained in the order.

DEFINITIONS THE

§ 908.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 908.2 Secretary. "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 908.3 Department of Agriculture. "Department of Agriculture" means the United States Department of Agriculture, or such other Federal agency as may be authorized to perform the price reporting functions specified in this part.

§ 908.4 Central Arkansas Marketing Area. "Central Arkansas Marketing Area" hereinafter called the "Marketing Area" means all territory included within the boundaries of the counties of Pulaski, Jefferson, Faulkner, White, Clark and Garland, all in the State of Arkansas.

§ 908.5 *Person*. "Person" means any individual, partnership, corporation, association or other pusiness unit.

§ 908.6 Producer "Producer" means any person other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received during the month at a pool plant: Provided, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of February through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

§ 908.7 Approved plant. "Approved plant" means all of the buildings, premises and facilities of a plant (a) in which milk or skim milk is processed or packaged and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) to wholesale or retail outlets (except pool plants) located in the marketing area, or (b) from which milk or skim milk eligible for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant.

§ 908.8 Distributing plant. "Distributing plant" means an approved plant from which Class I milk equal to not less than 50 percent of its receipts of producer milk and fluid milk products from other pool plants is disposed of during the month, on routes or through plant stores, to wholesale or retail outlets (except pool plants) and from which Class I milk equal to not less than 10 percent of such receipts is disposed of during the month on routes or through

plant stores, to wholesale or retail outlets (except pool plants) located in the marketing area.

§ 908.9 Supply plant. "Supply plant" means an approved plant from which fluid milk products equal to not less than 50 percent of its receipts of producer milk during the month are shipped during such month to distributing plants: Provided, That any plant which qualifies as a supply plant for each of the months during the period August through January shall, upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through July.

§ 908.10 Pool plant. "Pool plant" means a distributing plant, or a supply plant, except a plant of a producer-handler.

§ 908.11 Nonpool plant. "Nonpool plant" means any milk, manufacturing or processing plant other than a pool plant.

§ 908.12 Handler "Handler" means:
(a) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 908.6; or

(b) Any person in his capacity as the operator of one or more approved plants: *Provided*, That if a person operates more than one pool plant he may, upon written application to the market administrator, be considered as a separate handler for the month with respect to one or more of his pool plants if no fluid milk products or producers are transferred during the month between such plant(s) and other pool plant(s) of such handler.

§ 908.13 Cooperative association. "Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" and

(b) To have and to be exercising full authority in the sale of milk of its members.

§ 908.14 Producer-handler "Producer-handler" means any person who operates a dairy farm and a distributing plant which during the month has no other source milk or producer milk.

§ 908.15 Producer milk. "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the plant directly from producers, or (b) diverted from a pool plant to a nonpool plant (except a nonpool plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 908.6.

§ 908.16 Fluid milk product. "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream, or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers,

eggnog, ice cream mix and acrated

§ 908.17 Other source milk. "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and (b) products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 908.18 Base milk "Base milk" means milk received at pool plants from a producer during any of the months of February through July which is not in excess of such producer's daily average base computed pursuant to § 908.90 multiplied by the number of days in such month.

§ 908.19 Excess milk. "Excess milk" means milk received at pool plants from a producer during any of the months of February through July which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 908.90.

§ 908.20 Chicago butter price. "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesalo selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

MARKET ADMINISTRATOR

§ 908.25 Designation. The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 908.26 Powers. The market administrator shall have the following powers with respect to this part:

(a) To Administer its terms and provisions:

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

tions; and
(d) To recommend amendments to the Secretary.

§ 908.27 Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to

enable him to administer its terms and provisions;

- (c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;
- (d) Pay out of the funds received pursuant to § 908.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses (except those incurred under § 908.85) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;
- (e) Keep such books and records as will clearly reflect the transactions provided for in this section, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;
- (f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 908.30 and 908.31 or payments pursuant to §§ 908.80 through 908.86.

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

- (h) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;
- (i) Verify all reports and payments of each handler by audit of the records of such handler or any other handler or person to whom skim milk and butterfat are transferred, or by such other means as are necessary.
- (j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and
- (k) On or before the date specified publicly announce, and mail to each handler at his last known address a notice of the following:
- (1) The 5th day of each month, the Class I milk price and the Class I butter-fat differential, both for the current month; and the Class II milk price, and the Class II butterfat differential; both for the preceding month;
- (2) The 11th day of each month, the uniform price, and the producer butter-fat differential, both for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 908.30 Reports of sources and utilization. On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his approved plants for such month to the market administrator in

the detail and on forms prescribed by the market administrator as follows:

- (a) The quantities of skim milk and butterfat contained in:
- (1) Producer milk;
- (2) Fluid milk products received from other pool plants;
 - (3) Other source milk:
- (4) Inventories of fluid milk products on hand at the beginning of the month; and
- (b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk outside the marketing area, and inventories of fluid milk products on hand at the end of the month.
- § 908.31 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.
- (b) Each handler, except a producerhandler, shall report to the market administrator in the detail and on forms prescribed by the market administrator;
- (1) On or before the 7th day of each of the months of March through August the aggregate quantity of base milk received at his pool plant(s) for the preceding month;
- (2) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of February through July, the pounds of base milk, (iii) the days for which milk was received from such producer, if less than the entire month, (i) the average butterfat content of such milk, and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions;
- (3) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product;
- (4) On or before the day prior to diverting producer milk pursuant to § 908.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted; and
- (5) Such other information with respect to his sources and utilization of butterfat and skim milk as the market administrator may prescribe.
- § 908.32 Records and facilities. Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:
- (a) The receipt and utilization of all skim milk and butterfat handled in any form:

- (b) The weights and tests for butterfat and other content of all products handled;
- (c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and
- (d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 908.33 Retention of records. All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 908.40 Skim milk and butterfat to be classified. The skim milk and butterfat to be reported for pool plants pursuant to § 908.30 (a) shall be classified each month by the market administrator, pursuant to the provisions of §§ 908.41 through 908.45.

§ 908.41 Classes of utilization. Subject to the conditions set forth in §§ 908.42 through 908.45, the classes of utilization shall be as follows:

(a) Class I milk. Class I milk shall be all skim milk and butterfat; (1) disposed of from the plant in the form of find milk products, except those classified pursuant to paragraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk.

(b) Class II milk. Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of as skim milk and used for livestock feed; and (4) in shrinkage not to exceed 2 percent respectively of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 908.6) and other source milk: Provided. That if shrinkage of skim milk or butterfat is less than such 2 percent, it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 908.6) and other source milk respectively.

§ 908.42 Responsibility of handlers. All skim milk and butterfat to be classified pursuant to this part shall be classified Class I milk, unless the handler who first receives such skim milk and butter-

fat establishes to the satisfaction of the market administrator that it should be classified Class II milk.

§ 908.43 Transfers. (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producerhandler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified Class I milk, unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 908.30: Provided, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 908.45.

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified Class I milk.

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool plant from which no fluid milk products are distributed on routes and which is located less than 250 miles by the shortest hard surfaced highway distance, as determined by the market administrator, from the plant from which transferred or diverted shall be classified Class I milk unless, (1) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 908.30 for the month within which such transaction occurred, (2) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: Provided, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified Class I milk.

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 908.30, (2) the handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only," (3) the handler gives the market administrator sufficient notice to allow him to verify such Class II disposition in advance, (4) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (5) such cream is not disposed

of by the transferee under Grade A label.

§ 908.44 Computation of skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 908.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: Provided. That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 908.45 Allocation of skim milk and butterfat classified. (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 908.41 (b).

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk except that to be subtracted pursuant to subparagraph (3) of this paragraph: Provided, That if the pounds of skim milk to be subtracted exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in fluid milk products received from plants regulated pursuant to other orders issued pursuant to the act, less any equivalent amounts of skim milk in other source milk allocated to Class I milk at each of such plants respectively. *Provided*, That if the pounds of skim milk to be subtracted exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk; in Class I

milk in Class I milk;

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: Provided, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk remaining in Class I milk:

(5) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 908.43 (a)

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(7) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from pro-

ducers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk.

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk.

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class,

MINIMUM PRICES

§ 908.50 Basic formula price. The highest of the prices computed pursuant to paragraphs (a), (b) and (c) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) To the average of the basic (or field) prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Company, Mount Pleasant, Mich. Borden Company, New London, Wis. Borden Company, Orfordville, Wis. Carnation Company, Oconomowoc, Wis. Carnation Company, Richland Center, Wis. Carnation Company, Sparta, Mich. Pet Milk Company, Belleville, Wis. Pet Milk Company, Hudson, Mich. Pet Milk Company, Hudson, Mich. Pet Milk Company, New Glarus, Wis. Pet Milk Company, Weyland, Mich. White House Milk Company, Manitowoc, Vis.

White House Milk Company, West Bend, Wis.

Add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price computed by adding together any plus values computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiply the Chicago butter price by 4.8;

(2) Deduct five cents from the simple average as computed by the market administrator of the weighted averages of carlot prices per pound of nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department of Agriculture, and multiply by 7.5.

(c) The price resulting from the following calculations:

(1) Multiply by 8.53 the average of the daily prices per pound of cheese at Wisconsin primary markets ("cheddars," f. o. b. Wisconsin assembly points, cars or truckloads) as reported by the Department of Agriculture during the month;

(2) Add 0.902 times the Chicago butter price for the month:

(3) Subtract 34.3 cents; and

(4) Add an amount computed by multiplying the Chicago butter price for the month by 0.6.

§ 908.51 Class prices. Subject to the provisions of §§ 908.52 and 908.53, the class prices per hundredweight of milk containing 4.0 percent butterfat shall be determined for each month as follows:

(a) Class I milk price. The Class I milk price shall be the basic formula price for the preceding month, plus \$1.28 from the effective date hereof through August 1955, and for the months of March through August 1956; and plus \$1.68 for the months of September 1955 through February 1956.

(b) Class II milk price. For the months of February through July the Class II milk price shall be the price determined pursuant to subparagraph (1) of this paragraph rounded to the nearest cent. For all other months it shall be the basic formula price, or the price determined pursuant to subparagraph (1) of this paragraph, plus 25 cents, whichever is less.

(1) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month.

Present Operator and Location

Sugar Creek Creamery, Russellville, Ark. Ozark Creamery Co., Ozark, Ark. Pet Milk Co., Siloam Springs, Ark.

§ 908.52 Butterfat differential to handlers. For milk containing more or less than 4.0 percent butterfat, the class prices calculated pursuant to §908.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) Class I price. Multiply the Chicago butter price for the previous month by 0.12;

(b) Class II price. Multiply the Chicago butter price for the month by 0.11 for the months of February through July, and by 0.115 for all other months.

§ 908.53 Location differentials to handlers. For that milk which is received from producers at a pool plant located 60 miles or more from the city limits of Benton, Arkansas, by shortest highway distance, as determined by the market administrator, and which is transferred to another pool plant in the form of fluid milk products and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 908.51 (a) shall be reduced at the rate of 1.5 cents for each 10 miles or residual fraction thereof that such plant is from such city limits where such milk is received from producers: Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred betwen pool plants shall be assigned to any remainder of Class II milk in the plant to which transferred after

making the calculation prescribed in to retail or wholesale outlets (including § 908.45 (a) (1) through (4) and the comparable steps in paragraph (b) thereof for such plant, such assignment to the transferring plants to be made in) sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential,

§ 908.54 Rate of compensatory payments. The rate of compensatory payment per hundred-weight shall be calculated as follows:

(a) For the months of February through July, subtract the Class II milk price, adjusted by the Class II butterfat differential, from the Class I milk price, adjusted by the Class I butterfat differential and in the case of fluid milk products by the Class I location differential.

(b) For the months of August through January, subtract the uniform or the weighted average of the base and excess prices to producers from the Class I milk price.

APPLICATION OF PROVISIONS

§ 908.60 Producer-handlers. Sections 908.40 through 908.45, 908.50 through 908.53, 908.61, 908.62, and 908.70 through 908.75, and 908.80 through 908.87 shall apply to a producer-handler.

§ 908.61 Plants subject to other Federal orders. A plant specified in paragraphs (a) or (b) of this section shall be a nonpool plant for purposes of this order except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 908.30) and allow verification of such reports by the market administrator.

(a) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk was disposed of from such plant during the six months period immediately preceding to retail or wholesale outlets (except pool plants or nonpool plants) in the Central Arkansas marketing area than in the marketing area regulated pursuant to such other order.

(b) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of August through January.

§ 908.62 Handlers operating nonpool plants. Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall, on or before the 15th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of in the form of fluid milk products from such nonpool plant

deliveries by vendors and sales through plant stores) in the marketing area during the month, by the rate of compensatory payment calculated pursuant to \$ 908.54.

DETERMINATION OF PRICES TO PRODUCERS

§ 908.70 Computation of the value of producer milk for each handler. For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 908.45 by the applicable class price, and total the resulting amounts (and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 908.53)

(b) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 908.45 (a) (2) and (b) by the rate of compensatory payment as determined pursuant to § 908.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 908.45 (a) (7) and (b) by the applica-

ble class price;

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 908.45 (a) (5) and (b) for the preceding months or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 908.45 (a) (4) and (b) for the current month, whichever is less, respectively.

§ 908.71 Computation of the uniform price. For each of the months of August through January, the market administrator shall compute the uniform price per hundredweight of producer milk of 4.0 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the values computed pursuant to § 908.70 for the producer milk of all handlers who submit reports prescribed in § 908.30 and who have made payments for the previous month pursuant to § 908.80 or § 908.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the variation in the average butterfat content of such milk from 4.0 percent by the butterfat differential computed pursuant to § 908.73 and multiply the result by the total hundredweight of such milk:

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 908.80 (a) (2):

- (d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;
- (e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and
- (f) Subtract not less than 4 cents nor more than 5 cents.
- § 908.72 Computation of uniform prices for base milk and excess milk. For each of the months of February through July, the market administrator shall compute the uniform prices per hundred-weight for base milk and for excess milk, each of 4.0 percent butterfat content, f. o. b. market, as follows:
- (a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 908.30, and who have made payments for the previous month pursuant to §§ 908.80 or 908.82 as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price; (2) multiply any additional hundredweight of such milk by the Class I milk price, and (3) add together the resulting amounts:
- (b) Divide the aggregate value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers:
- (c) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk from the total value of producer milk for the month as determined according to the calculations set forth in § 908.71 (a) through (d)
- (d) Divide the result obtained pursuant to paragraph (c) of this section by the total hundredweight of base milk of handlers included in these computations.
- (e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content f. o. b. market.
- § 908.73 Butterfat differential to producers. The applicable uniform prices to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 908.52, dividing by the total butterfat in producer milk and rounding to the nearest even tenth of a cent.

§ 908.74 Location differential to producers. The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the city limits of Benton, Arkansas, by the shortest highway distance, as determined by the market administrator.

shall be reduced according to the distance of the plant from such city limits at the rate of 1.5 cents for each 10 miles or residual fraction thereof.

§ 908.75 Notification of handlers. On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 908.30, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof:

(b) For the months of February through July the amounts and value of his base and excess milk respectively.

(c) The uniform price(s) computed pursuant to §§ 908.71 and 908.72 and the butterfat differential computed pursuant to § 908.73; and

(d) The amounts to be paid by such handler pursuant to §§ 908.82, 908.87, and 908.88, or 908.62.

PAYMENTS

§ 908.80 Time and method of payment for producer milk. (a) Except as provided in paragraph (b) in this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 908.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: Provided, That if by such date such handler has not received full payment from the market administrator pursuant to § 908.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which

payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler shall furnish the person to whom payment is to be made pursuant to this section with the following information;

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month,

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 15th day of the following month to producers (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of February through July the pounds of base milk received, (iii) the amount or rate and nature of deductions made from payments and (iv) the amount and nature of payments due pursuant to § 908.84.

§ 908.81 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 908.62, 908.82 and 908.84, and out of which he shall make all payments pursuant to §§ 908.83 and 908.84: Provided, That any payments dut to any handler shall be offset by any payments due from such handler.

§ 908.82 Payments to the producersettlement fund. On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 908.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 908.83 Payments out of the producer-settlement fund. On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 908.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 908.84 Adjustment of accounts. Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the

market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 908.85 Marketing services. Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 908.80, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 908.86 Expense of administration. On or before the 15th day after the end of each month, each handler shall pay to the market administrator, for each of his approved plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, (b) other source milk allocated to Class I milk pursuant to § 908.45 (a) (2) and (b) or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool. plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 908.87 Termination of obligations. The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the

market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

The amount of the obligation;
 The month(s) during which the milk, with respect to which the obligation exists was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which

it is to be paid.

- (b) If a handler fails or refuses, with respect to any obligation under this part. to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative.
- (c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.
- (d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to Section 8c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 908.90 Computation of daily average base for each producer Subject to the rules set forth in § 908.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December inclusive, or by 90, whichever is more.

§ 908.91 Base rules. The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market

administrator shall assign a base as calculated pursuant to § 908.90 to each person for whose account producer milk was delivered to pool plants during the months of September through December.

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder. or his heirs, and by the person to whom such base is to be transferred: Provided. That if a base is held jointly, the entire base shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 908.92 Announcement of established bases. On or before January 25, of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 908.100 Effective time. The provisions of the part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 908.101 Suspension or termination. The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 908.102 Continuing obligations. If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 908.103 Liquidation. Upon the suspension or termination of the provisions of this part, except §§ 908.34, 908.89, and 908.91 through 908.93, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 908.110 Agents. The Secretary may by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 908.111 Separability of provisions. If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 15th day of July, 1955.

[SEAL] F R. Burke,
Acting Deputy Administrator

[F. R. Doc. 55-5885; Filed, July 19, 1955; 8:52 a. m.]

[7 CFR Parts 1002, 1009].

[Docket No. AO-268]

HANDLING OF MILK IN GREATER WHEELING, W VA., AND CLARKSBURG, W VA., MAR-KETING AREAS

NOTICE OF RECOMMENDED DECISION AND OP-PORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENTS AND ORDERS

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed marketing agreements and orders regulating the handling of milk in the Greater Wheeling, West Virginia, and Clarksburg, West Virginia, marketing areas, respectively, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington, D. C., not later than the close of business on the 15th day after the publication of this recommended decision in the Federal Register. Exceptions should be filed in

quadruplicate.

Preliminary statement. A public hearing on the record of which the recommended marketing agreements and orders were formulated was called by the Agricultural Marketing Service, United States Department of Agriculture, following receipt of a petition and proposed order filed by the Dairyman's Cooperative Sales Association, Pittsburgh, Pennsylvania. The public hearings on the record of which the proposed marketing agreements and orders were formulated were conducted at Wheeling, West Vir-

gima, on February 8–17, 1955, pursuant to a notice thereof issued January 5, 1955 (20 F R. 219) and reconvened March 15–18, 1955 in Clarksburg, West Virgima, pursuant to a notice issued February 24, 1955 (20 F R. 1224)

The material issues of record related to:

- 1. Whether the handling of milk in the market(s) is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;
- 2. Whether marketing conditions justify the issuance of a marketing agreement(s) or order(s) and
- 3. If an order(s) is issued, what its provisions should be with respect to:
 - (a) The scope of regulation,
 - (b) The classification of milk,
- (c) The level and method of determining class prices,
- (d) The method to be used in distributing proceeds to producers, and

(e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

(1) Character of commerce. The handling of milk in the Greater Wheeling, and Clarksburg, West Virginia, marketing areas is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce

in milk and milk products.

The marketing area specified in the order proposed herein for Wheeling is located in the upper Ohio River Valley and includes all or part of four counties located in the State of Ohio and four counties located in the State of West Virginia. Within this area there is a continuous and substantial interstate commerce in the procurement of milk from producers and the sale of fluid milk and its products to consumers. Distributing plants located in Wheeling, West Virginia, regularly deliver fluid milk products in Bellaire, Martins Ferry, Steubenville, East Liverpool and other areas in Ohio. Likewise, distributing plants in such Ohio cities as Steubenville, East Liverpool and Canton regularly distribute fluid milk products in such West Virginia cities as Wheeling, Weirton, Follansbee, Chester and contiguous areas.

The record shows that producers supplying milk to plants in the West Virginia portion of the marketing area are located in three counties in West Virginia, two counties in Pennsylvania, and four counties in Ohio. Producers from two counties in West Virginia, one county in Pennsylvania and five counties in Ohio supply milk to plants in East Liverpool and Steubenville, Ohio. In addition, this general supply area is intermingled with that of Pittsburgh, Pennsylvania; overlaps with that of the Stark County, Ohio marketing area (which is regulated by Federal Order No. 63, as amended) and adjoins part of the supply area for the Tri-State marketing area (regulated by Federal Order No. 72. as amended)

The handling of milk produced for the Clarksburg, West Virginia, marketing area also is in the current of interstate

commerce and directly burdens, obstructs or affects interstate commerce in the handling of milk and its products.

The record discloses that one of the principal distributors serving the Clarksburg area as proposed herein processes its fluid milk products in, and distributes them from, a plant located in the Greater Wheeling marketing area. Milk used in these products is procured from producers located in West Virginia and Ohio. In addition, this handler has imported milk from Indiana during parts of 1953 and 1954 to supplement supplies procured from West Virginia and Ohio producers.

Substantial quantities of such manufactured dairy products as cottage cheese and ice cream are distributed in the marketing area from sources located outside the State of West Virginia. A distributor located in the Clarksburg marketing area distributes ice cream and cottage cheese within the area that is processed and manufactured in company-affiliated plants located in the Tri-State market (a Federally-regulated Seasonal surpluses of locally area) produced Grade A milk are used in the manufacture of dairy products, particularly ice cream, which in turn is sold in competition with ice cream manufactured in areas outside of West Virginia.

In addition, Clarksburg has for a period of years relied upon milk received at a plant in Oakland, Maryland, as a standby reserve supply. The record discloses that a distributor in the Clarksburg area has used milk from this source to augment local supplies of producer milk during seasonally short months for several years.

(2) The need for regulation. The issuance of orders to regulate the handling of milk in the proposed Greater Wheeling and in the Clarksburg, West Virginia, marketing areas will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act.

The Federal milk marketing orders proposed herein will implement this policy of establishing and maintaining orderly marketing conditions in the respective areas by

(a) Establishing uniform prices to handlers for milk received from producers according to a classification plan based on the use made of such milk;

(b) Establishing uniform returns to producers supplying the marketing areas and insuring that the lower returns from the sale of reserve milk in each market are shared equitably among all producers of such milk;

(c) Providing an impartial audit of handler's records of receipts and utilization to further insure uniform prices for milk purchased,

(d) Providing all producers with a means whereby the weighing and testing of their milk can be checked;

- (e) Providing a regular and dependable method for determining prices to producers at levels comparable to those contemplated under the act;
- (f) Establishing uniform rules for the operation of a market-wide base and surplus plan that will (i) acquaint producers with the rules for establishing bases and determining base and excess prices; and

(ii) encourage producers to balance seasonal fluctuations in the production of milk with a relatively steady consumer demand for such production; and

(g) Providing market-wide information on the receipts, sales and other data relating to milk market problems in these

The record is replete with testimony on the chaotic marketing conditions created by the wide variety of classification and pricing plans used by distributors selling in the areas and the resultant lack of uniformity in prices paid producers for such milk. Testimony relative to the Wheeling marketing area indicates that these local conditions were aggravated by the sale of milk purchased at distress prices by out-of-area distributors and sold in the proposed marketing area in competition with milk purchased from producers regularly supplying the market. Local handlers were forced to meet this competition by passing the effects of lower resale prices back to individual producers in the form of lower producer prices. The Dairymen's Cooperative Sales Association, the principal cooperative association of producers in the marketing area, had to meet the situation by granting distributors buying from them price reductions of various types during the last two years. For several months in 1954 Grade A milk sold in gallon jugs was priced at the manufacturing milk level; fluid skim milk in parts of the proposed marketing areas still is priced at the surplus level. During the fall months in 1954 producers had to grant an extra price reduction by allowing handlers to pay for 12 percent of their Class II and II-A sales at the Class II-B, or manufacturing price, regardless of actual usage in the plant.

These actions have lowered prices to producers to the point where a continuous and adequate supply of pure and wholesome milk for the area is threatened. Blend prices to producers at East Liverpool, Ohio, and Wheeling, West Virginia, were 55 to 67 cents a hundredweight below their 1949-53 relationship with the Canton and East Rochester, Ohio, markets. These conditions led the producers association to subsidize their producer-members in these two markets with payments totaling \$69,000 during 1953 and 1954. The classification and pricing plan of a Federal milk marketing order is the only available means of insuring the uniformity of payments for milk by handlers which is needed to restore and maintain orderly marketing conditions.

The variety of systems used by distributors purchasing milk in both the Wheeling and Clarksburg markets has created a wide variation in prices received by producers supplying handlers in and between parts of each of the marketing areas. In the East Liverpool, Ohio and Wheeling, West Virginia portion of the Wheeling marketing area, and the Clarksburg and Fairmont, West Virginia, portions of the Clarksburg marketing area, much of this difference in prices realized by producers arises because member-producers of the Dairymen's Cooperative Sales Association provide: a major part of the reserve milk for the

major burden of the lower prices realized from the sale of this milk in the form of manufactured dairy products. market-wide pooling provisions of the orders proposed herein will provide a means of insuring uniform returns to producers and equitable sharing of the burden of providing the necessary quantities of reserve milk.

Many producers supplying handlers in both the Wheeling and Clarksburg marketing areas have no effective means of insuring the accuracy of the weights and tests of their regular deliveries of producer milk. In addition, only part of the handlers in each market permit the auditing of their records for the purpose of establishing the accuracy of (1) the utilization of producer receipts accordmg to a classification plan or (2) proportions of milk paid for as base and surplus under the handler-operated base-surplus plans now in use in certain parts of each marketing area. There is need for a Federal milk order to correct these inequities.

The record also indicates that a substantial number of producers have no regular and dependable method for participating in the price determining decisions that govern the sale of their milk. Even the producers represented by the cooperative association have been unable to establish a satisfactory classification plan among handlers in the two marketing areas and protect themselves against the depressed prices resulting from the chaotic marketing conditions mentioned above. There is need for a Federal order to establish a complete and equitable classification plan that applies to all handlers, and to supplement this plan with a formula for determining minimum prices to producers equivalent to those contemplated under the enabling act. Such prices should insure a sufficient quantity of pure and wholesome milk for the marketing areas, and will protect the interests of consumers and be in the public interest.

Many of the marketing difficulties stem from a lack of complete and accurate information about the supply and demand for milk in each area. The Federal milk orders proposed herein will make such information available to all interests in the market and will provide a reliable basis for decisions on prices and other marketing problems encountered in each area. The availability and dissemination of accurate market-wide information about each fluid milk market will tend to create confidence in the marketing system that does not exist under present conditions.

(3) Order provinons—(a) Scope of regulation. Federal milk orders achieve marketing and pricing stability by using techniques authorized by the Agricultural Marketing Agreement Act of 1937, as amended. Important among these techniques are the requirements that (1) regulated distributors (handlers) pay at least specified minimum prices to producers in accordance with a classified use plan established in an order, and (2) these payments are distributed to each producer on a uniform basis through either an individual-handler pool or a

markets and, consequently, carry the market-wide pool. Under the circumstances it is important to establish clearly which plants and which milk will be subject to all or part of the pricing provisions of the orders and, in turn, which producers will participate in the distribution of returns through the respective pools. To identify such persons and to facilitate reference to them. throughout this decision and in the proposed orders, such terms as marketing area, producer, types of milk plants, handler, producer milk, and other source milk are defined and are used herein.

Marketing area. The Greater Wheeling marketing area should be defined to include all of the territory within the boundaries of (a) Jefferson and Belmont Counties, Ohio, (b) Hancock, Brooke, Ohio and Marshall Counties, West Virginia, (c) Liverpool, St. Clair, Wellsville, Yellow Creek, Madison and Washington Townships in Columbiana County, Ohio, and (d) Londonderry, Oxford and Millwood Townships in

Guernsey County, Ohio.

Clarksburg marketing The should be defined to include all of the territory within the boundaries of (a) Monongalia. Marion and Harrison Counties, (b) Grafton magisterial district in Taylor County, (c) Philippi magisterial district in Barbour County, (d) Leadsville magisterial district in Randolph County, (e) the City of Buckhannon in Upshur County, (f) the City of Weston in Lewis County, and (g) the City of Kingwood in Preston County, all in the State of West Virginia.

Consideration was given to the alternative of including the Clarksburg marketing area as part of the marketing area regulated by the Wheeling order. Record evidence makes it clear, however, that the most appropriate way to regulate the two areas is by separate orders fitted to the conditions of each market. The two areas are separated geographically by a tier of counties. The two areas have different relationships between the production and utilization of milk and as a result, would be affected differently by a market-wide pool. In addition the producers association maintains separate marketing districts for each area and has always paid producers in each area on the basis of separate market-wide pool. It is concluded therefore that the declared policy of the act can best be effectuated by regulating the Clarksburg area under a separate order instead of as a portion of the marketing area under the Wheeling order.

Fluid milk products sold for consumption within each of these two areas must be approved by health authorities who, in turn, are governed by health ordinances, practices and procedures generally patterned after the U.S. Public Health Service Milk Ordinance and Code. The record testimony indicates that within these defined areas the health standards are substantially equal and are under the jurisdiction of operating health authorities. These conditions support the adoption of milk marketing regulations that are applied equally within each defined area.

Marketing areas, as defined in Federal milk orders, are designed to cover areas in which milk is sold to consumers instead of covering areas of production. The proposed orders for Wheeling and Clarksburg would regulate distribution and supply plants (handlers) that are in substantial sales competition with one another within and throughout their respectively defined marketing areas. The marketing areas include the most densely populated places in each region and comprise the most important sales territory served by handlers located within the areas.

The orders proposed herein for Wheeling and for Clarksburg define their respective marketing areas to include less territory than that requested by both the producers association and by various handlers. With respect to the Wheeling order, the proposal to include Monroe County, Ohio, was not supported directly at the hearing, and the occasional reference to it in the record does not supply the evidence needed to justify its inclusion. Including the three townships in Guernsey County will insure the full regulation of a handler in Quaker City, Ohio, whose principal competition is handlers who would be regulated by the Wheeling order. The inclusion of any greater portion of Guernsey County would bring under regulation plants located far to the West of Wheeling that do not sell substantial quantities of milk in the defined area. These competing plants are located in Zanesville, Ohio (approximately 76 miles west of the city and Cambridge, Ohio. of Wheeling) Extension of the market area into Columbiana County as requested by certain handlers would bring under the regulation of the Wheeling order several handlers whose principal business is in other fluid markets. Harrison County, Ohio, is largely rural and the need for regulating sales in that county in order to make effective the regulation in urban areas along the Ohio River was not established by the record.

Certain handlers proposed a marketing area for the Clarksburg order that would have included a total of eleven counties in north-central West Virginia. The operator of another plant distributing milk in the region requested a marketing area of only the four counties in which the major population centers are located. However, record evidence indicates that milk distribution in three counties and certain population centers in the additional seven-county region is and has been closely intermingled and interdependent. It appears that orderly marketing and pricing conditions can be restored and maintained in the Clarksburg area by limiting the marketing area to the three counties of Monongalia, Marion and Harrison, and the contiguous population centers of Grafton. Philippi and Leadsville magisterial districts and the cities of Buckhannan, Kingwood, and Weston, all in West Virginia.

The record evidence relating to Tyler and Wetzel Counties, West Virgima indicates that the substantial majority of fluid milk products sold in those counties would be subject to either the Tri-State or the proposed Wheeling and Clarksburg Federal orders. As long as producers are paid for their milk in accordance with minimum prices and a classified-use

plan of some Federal order, their needs are met without expanding the area to include each political subdivision involved.. In this instance as with previous areas discussed, it is not administratively feasible nor necessary to include within the marketing area all of the territory in which handlers may be distributing any portion of their sales of fluid milk products. In fact, it is impracticable, if not impossible, to extend the marketing areas to include all the territory in which there is not some competition with distributors from other sales areas, including unregulated distributors. Accordingly, it appears that the marketing areas defined herein for the Wheeling and Clarksburg orders include the territory which will minimize the problems of competition with unregulated distributors and at the same time regulate enough sales area to restore and maintain orderly marketing conditions for producer milk in their respective areas.

Definitions of plants and milk to be subject to regulation. The distributing plants located within the Wheeling and Clarksburg marketing areas dispose of the major portion of their milk receipts as flud milk products. These flud milk products are required to be made from milk produced under supervision of the duly constituted health authorities having jurisdiction in the area and include such products as milk, skim milk. buttermilk, flavored milk, flavored milk drinks, yogurt, cream and mixtures in fluid form of milk, skim milk and cream. Plants disposing of the major portion of their producer receipts in such form should be fully regulated under the orders; they are designated herein as "approved plants" and "distributing plants." Any plant from which Class I milk is disposed of in the marketing area. but not in sufficient quantity to meet the standard for a distributing plant, should be defined as an "approved plant" and the operator of such plant should be required to file reports and submit to audit by the market administrator to verify the exact status of the plant.

There appears to be no clear cut dividing line around the markets which would encompass all route sales of handlers doing business therein. The proposed area comes as close to that goal as possible without extending the regulation unnecessarily to handlers whose major fluid business is in another market. Although the boundaries of the marketing areas are drawn tightly to minimize the number of handlers who would be fully regulated because of making relatively small sales in the areas. there are some instances in which plants doing business along the boundaries of the areas will become fully regulated under the orders. The record is replete, however, with evidence of the close interrelationship and similarity of marketing conditions in these areas, and particularly in the Greater Wheeling area. as compared to other nearby markets. Therefore, full and complete regulation of minimum prices paid to producers should be required of handlers who dispose of 5 percent or more of their recerpts as Class I milk in either marketing area.

It was suggested at the hearing that the sales in the market area equal to 15 percent of a handler's business be required for a handler to become subject to full price regulation. It appears from the description of both the Wheeling and Clarksburg markets that the circumstances under which handlers dispose of over 5 percent of their sales in the market area are not similar to the opportunity type disposition which characterizes surplus sales. The proper solution, therefore, apears to be the establishment of a low eligibility requirement for full regulation.

Combined with requirement that sales equal to five percent of a handler's business be made in the applicable marketing area there is established a requirement that at least 45 percent of the handler's sales in April, May and June, and 55 percent in all other months be made in Class I uses. This requirement with respect to total Class I use will exclude plants generally recognized as manufacturing milk plants.

Provisions for pricing the milk actually disposed of in fluid items in the areas should be established to assure that the market is not disrupted by sales of handlers who would be exempted from complete pricing and regulation.

The orders should also provide standards for plants from which distributing plants draw supplemental supplies of milk. Plants shipping supplemental supplies of milk to a market generally fall into two broad categories. One category should include plants serving as receiving stations for plants that supply milk to the market in such a manner as to be considered closely associated with the market. Full regulation should be extended to this category of plants.

Plants which are not primarily associated with the market, and which furnish only incidental shipments of milk to the market or regular shipments of limited quantities during only the shortest production period, need not be fully regulated. Such plants supply the market for a short duration only and may be located at widely scattered points. Such plants should be able to supply milk to the market during such periods of need without becoming fully subject to the order.

These objectives can best be accomplished by defining as a "supply plant" any approved plant that ships during the months of September through January to distributing plants at least 55 percent of its receipts of producer milk. If a supply plant meets these standards each of the months of September through January, such plant should be permitted, upon written application to the market administrator on or before January 31 following such compliance, to be designated as a "pool plant" until the end of the following August. Receipts from plants not qualified under these supply plant standards should be considered as other source milk.

A "pool plant" should include a distributing plant or a supply plant subject to full regulation of the order. The only exception to this should be a pool plant from which a larger proportion of the Class I sales from such plants is disposed of in a marketing area of another Federal milk order, provided such a plant would otherwise be subject to the classification and pricing provisions of the other order. To attempt to extend full regulation to plants already regulated under another Federal order would result in unnecessary duplicate regulation. However, such plants should be required to report their receipts and utilization to the market administrator as required so their exact status under the order can be determined.

The record discloses that several plants supply, or stand ready to supply, bulk milk on a regular or supplemental basis to distributing plants in both the Wheeling and Clarksburg marketing areas. Distributing plants that would be regulated by the Clarksburg order are regularly supplied milk by dairy farmers shipping to receiving stations at Buck-hannon, Philippi and Weston, West Virginia. In addition, a plant at Oakland, Maryland, has for a period of years made shipments at various times to a distributing plant located at Fairmont, West Virginia. Full regulation should be extended to such plants if they continue to supply a substantial part of their producer receipts to the regulated market. Although there are according to the record no regular supply plants serving the Wheeling area, some provision should be made to regulate plants of this type that become closely associated with the Wheeling marketing area. Supply plants are a normal part of milk procurement facilities in many markets. The supply plant standards recommended herein will provide the framework for appropriate regulation of supply plants if such are acquired by handlers in the market.

An "approved plant" is defined to include all plants subject to the reporting and verification provisions of the respective orders. A "handler" is defined as the operator of any such approved plant. Such handler is the person to whom the provisions of the order are applicable. The handler receives the milk and thus must be held responsible for reporting the receipt and utilization of it. If the milk is priced, he is responsible for paying producers the specified minimum prices. A handler should include a cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant for his account any day during the months of March through July or on not more than 10 days during any other month. If a handler also operates an unregulated plant(s) this definition is not intended to include such person in his capacity as an operator of such This definition should include plant(s) the operators of approved plants which do not qualify as distributing plants and producer handlers in order that they may be required to report to the market administrator whenever necessary to determine their status.

A "pool plant" is defined to include any distributing plant and supply plant subject to full regulation under the proposed orders. This category will distinguish such approved plants from other approved plants which are subject to

limited regulation under the proposed from pool plants, inventory and receipts orders.

from pool plants, inventory and receipts of producer milk. This includes any re-

"Producer" should be defined as any person other than a producer-handler who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority and the milk is received at a pool plant. Provision should be made so the milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant any day during the months of flush production and on not more than 10 days during any other months without such producers losing their status under the order. This will allow milk regularly associated with the market to be diverted to manufacturers during periods of flush production and over weekends and holidays when supply demand relationships require some reserve milk be manufactured in plants not regulated by an order. Producers whose milk is so diverted will continue to receive the uniform price under the order and their milk will be available for fluid use when needed. Diverted milk shall be deemed to have been received at the plant from which it was diverted.

"Producer milk" should include all skim milk and butterfat contained in milk produced by producers and received at pool plants directly from producers or diverted by a handler from such plant.

"Producer-handler" should be defined as a person who operates a distributing plant in which he handles only milk of his own production and milk from other handlers which was priced at such other handlers' plants. A producer-handler should be subject to the order only to the extent that he must submit reports to the market administrator, as required, and maintain and make available to the market administrator, accounts, records and facilities so that the market administrator may verify that such person is a producer-handler. It would be meannigless to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler should be Class I milk. Any supplemental supplies of milk which may be obtained from other handlers may, by virtue of the type of operation involved. be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. A producerhandler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order, any milk which a handler receives from a producerhandler would be other source milk and would, therefore, be allocated to the lowest class utilization at the pool plant(s) of a handler after the allocation of shrinkage on producer milk. This method of allocating producer-handler milk will preserve producers' priority on the Class I sales in each market.

"Other source milk" should be defined as all skim milk and butterfat contained in products utilized by the handler in his operations except fluid milk received

of producer milk. This includes any receipts during the month, of fluid milk products as defined above and any products from any source, including those produced at the plant, which are reprocessed or converted to other products in the plant. Thus other source milk would represent butterfat and skim milk from sources not subject to complete regulation by the pricing provisions of the respective order. If such other source milk is disposed of in a fluid milk product, partial pricing and regulation is provided under classification payments. Other source milk will include also those manufactured products from a plant or products which are made and are reprocessed or converted into another product during the same or a later

(b) Classification of milk. Milk received by regulated handlers in the Greater Wheeling and Clarksburg markets should be classified on the basis of skim milk and butterfat according to the form in, or the purpose for which it is used, as either Class I milk or Class II milk.

A classified-use plan of this type will insure that minimum prices for milk may be made equal among handlers according to use, that a price may be fixed for the milk disposed of as Class I at a level that will bring forth an adequate supply of pure and wholesome milk, and that a necessary reserve of quality milk may be maintained at all times (and used at prices in line with its value when processed into manufactured dairy products) without disrupting marketing and pricing conditions within and outside the established marketing areas.

The products which should be included in Class I milk are those required by health authorities in the marketing areas to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the markets in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded or manufacturing milk price. This higher price should be at such a level that it will yield a blend price to producers that will encourage production of enough milk to meet market needs.

Reserve milk not needed seasonally or at other times for Class I use must be disposed of for use in manufactured products. These products are less pershable and must be sold in competition with products made from unapproved milk. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, yogurt, cream or any mixture in fluid form of milk, skim milk and cream (except eggnog, ice cream, ice cream mixes, aerated cream and sterilized products contained in

hermetically sealed containers) and (2) not accounted for as Class II milk.

Class I products which contain concentrated skim milk solids such as skim milk drinks to which extra solids have been added, or concentrated whole milk disposed of for fluid use, would be included under the Class I milk definition. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans would not be considered as concentrated milk.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of milk products, received and disposed of by a handler, can be determined through certain recognized testing procedures. Some of these products. such as ice cream and condensed products, present a difficult problem of testing (and accounting) in that some of the water contained in the milk has been removed. It is necessary in the case of such products, to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator in the case of products produced by a handler, or by means of standard conversion factors of skim milk and butterfat used to produce such products in the case of products purchased by a handler. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible for establishing the classification of, and making payment to producers for, such milk. Fixing responsibility in this manner is a practice which is followed consistently in both regulated and unregulated markets. It is necessary herein to administer effectively the provisions of the The operator of the plant at order. which milk is first received from producers is the person with whom contractual relations have been made by producers or their representatives. Except for the limited quantities of shrinkage which may be classified in Class II under the certain conditions set forth elsewhere in this decision, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese:

cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened) nonfat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk. Skim milk and butterfat disposed of to commercial food product manufacturing plants, other than dairy plants, which do not dispose of fluid milk products for fluid consumption, should be Class II milk. The health ordinances applicable in the marketing areas do not require that these products be made from locally approved milk.

Cream placed in storage and frozen should be classified as Class II milk. Such cream is intended primarily for use in ice cream and ice cream mixes. Skim milk disposed of as animal feed also should be classified as Class II. Any frozen cream or other Class II products which are used later in a pool plant would be considered as other source milk at the time of such use and assigned to the lowest price utilization in the plant.

Butterfat and skim milk used to produce Class II products should be considered to be disposed of when so used. Handlers will need to maintain stock records on such products, however, to permit audit of their utilization records by the market administrator. Class II products from any source used in the production of products included in Class I milk should be considered to be a receipt of other source milk. This will maintain priority of assignment of current receipts of producer milk to Class I utilization.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Inventory is intended to include stocks on hand of bulk milk, skim milk, and cream and bottled milk and other fluid milk products designated as Class I milk. Manufactured products (Class II) on hand are not included in the inventory account because the milk used to produce such products will already have been accounted for as Class II milk. As previously indicated, handlers will need to keep stock records of such products but they will not be included in inventory for the purpose of accounting for current receipts.

It is concluded that inventory should be accounted for as Class II milk. If fluid milk products in inventory are accounted for as Class II milk at the end of the month, it will be necessary to provide a method to deal with the producer milk inventory which is used in the current month for Class I purposes but which the handler accounted for to producers as Class II milk at the end of the previous month. In plants which engage primarily in a fluid milk business, it is quite possible that a decrease in inventory in any given month may exceed their total utilization of milk in Class II. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by considering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class II milk following the subtraction of other source milk. To the extent that opening inventory is allocated to Class I milk and there was an equivalent amount of producer milk classified in Class II milk in the previous month (after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I price in the current month and the Class II price in the preceding month. This will promote equality in the cost of milk among handlers and returns to producers, irrespective as to whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler his total established utilization of skim milk and butterfat, respectively, in various products. Shrinkage not in excess of 2 percent of the handler's receipts of skim milk and butterfat from producers and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other pool plants because shrinkage on such milk will be allowed to the transferring handler. A plant operated in a reasonably efficient manner, and for which complete and accurate records of receipts and utilization are maintained, should be able to keep total shrinkage at less than 2 percent of total receipts. It is concluded, therefore, that shrinkage not in excess of 2 percent of total receipts of producer milk and other source milk should be classified as Class II milk: any in excess of this quantity should be classified as Class I milk.

Transfers. Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, since some Class I items may be disposed of to other plants for processing, separate classification procedures should be prescribed for transfers to other plants.

Milk, skim milk, cream or other products designated as Class I milk transferred by a handler to the plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk, and the classification results in the maximum assignment of the producer milk of both handlers to Class I milk.

In order to reduce the administrative expense of verifying the use of milk or skim milk transferred great distances, transfers of milk or skim milk to plants beyond a 250-mile radius should be Class I in all cases. The costs involved in transporting milk or skim milk in fluid form such a distance are so large that it

would not be economically feasible to move the milk for Class II disposition. Also there are adequate facilities for the manufacture of excess milk into Class II products within a radius of 250 miles.

Cream presents a somewhat different problem because its value is so much greater in relation to its bulk that it may be transported long distances for manufacture. Accordingly, it is provided that if requested by the handler cream may be Class II if moved to a nonpool plant, but only if it is clearly labeled as manufacturing grade cream, if prior notice of the intended shipment is furnished to the market administrator, and the operator of the nonpool plant maintains books and records of utilization which are made available if requested by the market administrator for the purpose of verification.

The more common form of transfer to a nonpool plant is the movement of excess milk to nearby manufacturing plants. There may, of course, be sales to such plants for fluid purposes. It is provided that transfers of milk, skim milk, or cream from a pool plant to a nonpool plant be Class I unless Class II use is affirmatively established. Evidence of Class II use consists of a certification by the pool plant operator that the transfer was intended for Class II use, and verification by the market administrator of the records made available by the nonpool plant operator to establish that the milk was not utilized for other than manufacturing purposes. If the nonpool plant operator engages in a fluid milk business at his plant, any amount by which his Class I sales exceed receipts from dairy farmers which constitute his regular source of supply is assignable to the transferred milk.

Allocation. Because the order class prices apply only to producer milk it is necessary, if a pool plant has butterfat or skim milk other than that received in producer milk, to determine the quantities of milk in each class to be assigned to current receipts from producers. The milk of producers who are regularly engaged in supplying the market should be assigned the Class I utilization first. This is necessary to insure the effectiveness of the classified pricing program of the order. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in detail in the orders.

In general this procedure requires that skim milk and butterfat, respectively, remaining in each class be assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class II milk, except as otherwise noted:

- (1) Class II shrinkage of producer milk:
 - (2) Other source milk:
 - (3) Beginning inventory
- (4) Receipts from other handlers (according to classification) and
 - (5) Overage,
- Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month. To apply a shorter ac-

counting period would place an accounting and reporting burden upon handlers and increase the cost of administering the order.

Class prices. In order to restore and maintain orderly marketing conditions in both the Wheeling and Clarksburg areas, minimum Class I and Class II prices for producer milk must be established at levels that will reflect economic conditions affecting the market supply and demand for milk or its products in the respective areas and assure the maintenance of a supply of quality milk adequate for the needs of each market. The enabling act requires that minimum prices established by orders meet this standard. An important point in this requirement is that the prices shall be at a level that over a reasonable period of time, due consideration being given the need for a reserve of milk and the seasonal variation in production, the supply of milk meeting the quality standards of each market will be about equal to the needs of each market for milk of that quality. This means, in turn, that the minimum prices provided for in the order can be related to general economic conditions, but cannot be maintained out of line with such conditions. If producer prices are too low, not enough milk of acceptable quality will be produced to supply fully the Class I needs of the market. If such prices are too high, on the other hand. milk production will be overstimulated and fluid consumption will tend to be curtailed. These actions would cause more milk to be produced than is needed to supply the demand for Class I milk. including the necessary reserves, and would (1) eventually result in the shifting of agricultural resources toward the production of unnecessary and uneconomic surpluses and (2) tend to depress

the blend price to producers.

The concept of adjusting minimum class prices in response to changes in supply and demand conditions, and thereby influencing production of milk through consequent changes in producers' blend prices, has wider geographical implications today than in the past. In early days, producers were limited to supplying milk to local markets because of inadequate transportation facilities and the local nature of health regulations and milk distribution systems. Today the technological advances in milk production, including the widespread use of milk cooling equipment on farms; the rapid motor transportation from farms to a number of cities instead of one or two, especially through the advent of bulk farm tank milk pickup: the increased efficiency of milk processing equipment and plants; the increasing importance of paper containers for packaging milk; the use of refrigerated delivery trucks; the sale of milk through vendors and stores in distant cities; and the corollary trend among health authorities approving sources of milk derived from a wider supply area under agreements for reciprocal inspectionall these factors enable milk to be transported and sold long distances from the point of production and processing. Record testimony shows that these economic developments and trends have and

are influencing the marketing organization and price structure for producer milk and for fluid milk products in the Wheeling and Clarksburg areas. Producers and handlers alike recognized the influence of these trends and developments in many ways, most significant of which was the continued reference to the need for aligning any prices to be included in the orders with prices currently being paid in such markets as Pittsburgh. Pennsylvania; Stark County, Ohio; and the Tri-State, Ohio-West Virginia-Kentucky market. The last-named markets presently are regulated by Federal milk orders.

There is much evidence in the record to support the necessity for a proper alignment of both class prices and producer blend prices with those prevailing in surrounding markets. The problem then reduces itself to this: with what markets should the Wheeling and Clarksburg areas be aligned to insure a proper level and relationship of prices. and how can that alignment be achieved.

A major part of the testimony of the producers' association with respect to prices was directed towards alignment with the Pittsburgh, Pennsylvania market although much recognition was given to the need for aligning a Class I price with those in the Ohio markets to the west, particularly Stark County. Specifically, the association proposed a formula for Class I prices that (1) established a ceiling of \$2.00 per hundredweight over alternative values of milk used for manufacturing purposes and a floor of \$1.50 over these same values (with a seasonal variation of 80 cents between spring and fall months) and (2) varied the exact Class I price by brackets of 22 cents depending upon the movement of an index that measured changes from a base period beginning with January 1947 in the value of such items as wholesale commodity prices and prices received and paid by farmers for milk sold and feed and labor purchased. The stated purpose of the formula was to return prices that would follow closely those established in the Pittsburgh area. However, the record indicates there is no accepted formula method of pricing Class I milk in the Pittsburgh market. Therefore no month to month alignment of prices between the Wheeling and Clarksburg markets and the Pittsburgh market can be accomplished in the absence of a formula guide to price changes in the Pittsburgh market. In establishing the general level of Class I prices in the Wheeling and Clarksburg markets consideration must be given to the attraction which the Pittsburgh market exerts on the supplies of milk available to these markets. Any close month-to-month relationship of Class I prices in these markets to the Class I prices established in the Pittsburgh market cannot precede the adoption of some formula method of pricing in the Pittsburgh market from which we could deduce the anticipated direction of prices in that market.

As a practical matter then in seeking a base for price alignment it is necessary to turn to the Ohio and West Virginia markets in which Class I prices are related to similar basic economic factors. The Class I prices in the nearby fluid milk markets of Stark County Akron, Cleveland, Columbus and Tri-State (Ohio-West Virginia-Kentucky) are established at a specified level over a basic manufacturing milk value and the level is adjusted by a measure of the local supply of milk relative to Class I sales.

The Greater Wheeling market is very closely related to the Stark County milk market both in sales of fluid milk and procurement of milk from producers. The milk supply areas of both the Wheeling and Clarksburg markets border and overlap the Tri-State market to the south. It is concluded therefore that the Class I price in the Greater Wheeling and Clarksburg markets should be aligned directly with the Class I prices in the Stark County market. Class I prices in the Stark County area are in turn related closely to the Class I prices in the Tri-State area.

The influence of the Pittsburgh market should be reflected in the level of the Class I price which should reflect the higher location value of Class I milk which tends to rise from the central area of the country to the Atlantic Coast. The longer time relationship between prices in the Stark County area and the Wheeling and Clarksburg markets together with evidence of the cost of transporting alternative supplies to these markets indicates the Wheeling price should be about 14 cents over the Stark County price on an anual basis and the Clarksburg price should be 25 cents higher than the Wheeling price.

The above conclusions can best be carried out in the Greater Wheeling order by adding a Class I differential of \$1.30 during the months of March through July and \$1.90 during the months of August through February to a basic formula price which reflects the value of manufacturing milk at a national level. This basic formula price is comparable with that used in the Federal milk orders regulating the Ohio markets. The particular price quotations used to reflect the value of manufacturing milk and dairy products are widely used in formula pricing throughout the country, and are concluded to be appropriate to reflect general changes in the value of milk and manufactured products throughout the major milk producing regions of the country. The differential regions of the country. that is added to the basic formula price should reflect in general the additional costs of getting Grade A milk produced and delivered to consumers in the quantities required to meet the market needs for fluid consumption.

The effective price of Class I milk in the Wheeling and Clarksburg areas should not, over any extended period of time, exceed the cost of regular dependable supplies of Grade A milk from alternative sources. On the other hand, the record indicates that a level of prices lower than those prevailing in markets to the north and west (the present sources of alternative supplies) with due consideration for the costs of moving milk to these areas, will not attract sufficient milk from local sources to meet the requirements of the markets.

Because of the lack of comprehensive and accurate market information, it is

extremely difficult to determine from this record the exact relationship between producer receipts and Class I sales of regulated handlers during any periods. It is clear that more information is needed before an automatic supply-demand adjustment could be developed from local information from the Wheeling and Clarksburg areas. However, to the extent that factors affecting milk supplies and milk sales are common to the region, the measure of supplies relative to sales in nearby markets would be expected to reflect similar trends in the Wheeling and Clarksburg markets. The Stark County Ohio, Federal order contains a supply-demand adjustment based in part on utilization in that market and in part on the utilization of the Cleveland, Ohio, market. Until such time as local market information will permit the adoption of a supply-demand adjustment for the Wheeling and Clarksburg areas, a practical substitute would be to adjust the Wheeling Class I price by the same amount and in the same direction as the Class I price for Stark County is adjusted by the supply-demand factor for that market. This temporary adjustment factor borrowed from the Stark County order will provide some adjustment to regional changes in milk supplies relative to sales and will assure continued alignment of prices between these markets.

The Class I prices recommended which are related to the Stark County order will result in close alignment also with the Class I prices established by the provisions of the Tri-State order.

If experience indicates that the proposed level of pricing fails to bring forth a satisfactory level of producer milk receipts in the marketing area, it will be appropriate to re-examine the pricing provisions in conjunction with the complete marketing information that will become available after the order has been in effect.

The market administrator should announce the Class I price at the beginning of each month. In order to do this, it will be necessary to use the price quotations for the previous month in determining the basic formula price. These quotations will be available so the market administrator will be able to announce the Class I price on or before the fifth day of the month to which the price applies.

Class II prices. Every fluid milk market needs a "reserve" supply of Grade A milk to meet day to day fluctuations in receipts from producers and in Class I sales. In the Wheeling and Clarksburg areas, as in all other fluid milk markets, consumers desire adequate and dependable supplies of Class I products in quantities which while they vary considerably on a daily basis, do not change greatly from season to season. Milk producers on the other hand, because of the seasonal variations in milk production, deliver more milk during the spring and summer months than during the fall and winter months. The result is that handlers must process on a year-around basis the reserve milk, and during the months of flush production quantities of seasonal excess into various manufactured products. Since milk going into these products must be paid for at the Class II price, this price should be fixed at a level which will induce handlers to accept and market whatever quantities of such milk may be offered from month to month by the producers who provide the market regular fluid supply. It is of equal importance to establish a price that will return producers full value for their milk.

The Class II prices recommended herein will permit conversions of reserve and surplus milk into manufactured products without fostering any of the undesirable competitive effects of an inaccurate price. A low Class II price permits processors to realize excessive margins in handling reserve and surplus milk and thus fosters an undue demand for surplus milk. On the other hand, too high a price may force some processors to refuse to accept milk from producers.

All products included in Class II may be made from unapproved milk. Approved milk which may be used in such products by regulated handlers in Wheeling and Clarksburg, should be priced in line with the cost of alternative supplies of milk or milk products used by dairy products manufacturers in this general area.

Ice cream, cottage cheese, and condensed milk are the most important outlets for reserve and surplus milk in these Surplus milk from area plants areas. is used also in the manufacture of butter. nonfat dry milk solids and various cheese types. The variety of products into which surplus milk is manufactured contributes to the value of such milk insofar as each product offers an alternative outlet. The value of surplus milk tends therefore to approach its value in the highest alternative product outlet available. The basic formula price determined on the basis of published prices paid for butter and nonfat dry milk solids and the actual prices paid at certain milk manufacturing plants approximate the alternative value of Grade A milk which must be utilized in products which do not require the use of approved Grade A milk.

Because of the limited facilities maintained by handlers for processing surplus milk in the Wheeling and Clarksburg areas, surplus milk in certain periods may be greater than the quantity which can be absorbed at the prevailing level of manufacturing milk prices. It is proposed, therefore, that in certain years during the months of April, May and June, the Class II price, which would be effective otherwise, would be reduced 20 cents per hundredweight. This additional incentive to accept milk for manufacturing purposes depends largely on the total supply of surplus milk relative to available outlets. guide to that general market condition may be found in the direction of adjustment caused by the supply-demand factor operating on the Class I price. Whenever the supply-demand adjustment causes a reduction in the normal Class I price differential it would appear that supplies of surplus milk are more than normal. The proposed orders provide that in such periods the Class II

price established during the months of April, May and June shall be reduced 20 cents per hundredweight.

In order that the Class II price may be kept in line with current changes in manufacturing values, the prices paid for manufacturing milk and the central market prices for butter and nonfat milk solids during the current month should be used for determining the Class II price under the orders.

Location differentials. Class I milk products because of their bulky, perishable nature incur a relatively high transportation cost if such products or the milk used to produce them is moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers included in the defined marketing areas is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market.

In order to allow for the cost of moving Class I milk from distant plants that are, or might become, regular sources of supply for the respective marketing areas, it is necessary to establish the Class I price for milk delivered to plants m or near the marketing areas and then provide a schedule of deductions from the Class I milk price as location differentials or adjustments. The distances used in determining such differentials should be measured from each market and should apply at plants located more than 60 miles by shortest hard-surfaced highway distance as determined by the market administrator. In the Wheeling order the distances should be computed from the City Hall of Wheeling, West Virginia, Steubenville, Ohio or East Liverpool, Ohio, whichever is nearest; in the Clarksburg order the distances should be computed from the City Hall of Clarksburg, West Virginia.

The rates in the Greater Wheeling order should begin with 15 cents at plants located in the 60-70 mile zone, 16½ cents in the 70-80 mile zone, 18 cents in the 80-90 mile zone, and 1 cent for each additional 10 miles or fraction thereof as measured from the City Hall of the designated cities in each order. These rates approximate the cost of moving bulk tank milk from outlying plants into the marketing area and are comparable with those contained in other Federal milk marketing orders. In the Clarksburg market, location differential rates should be slightly higher in view of the greater hauling costs incurred in that area of rough terrain and winding roads. The rate should begin with 20 cents at plants located in the 60-70 mile zone, 22 cents in the 70-80 mile zone, 24 cents in the 80-90 mile zone, and 1-cent for each additional 10 miles or fraction thereof. The rates should apply in each market to all milk assigned to or otherwise classified as Class I.

A method is provided for determining the priority of milk from various plants in allocating milk to Class I for purposes of computing the location adjustments proposed herein. Class I priority is given to milk in the order of the plants nearness to the market.

The value of milk used in manufactured darry products is affected little, if any, by the location of the plant receiv-

ing and processing such milk (in contrast to the situation with respect to Class I fluid milk products) This phenomenon occurs because of a very significant difference in the costs of transporting the two types of dairy products—fluid milk products are bulky, easily contaminated, almost non-storable, and heavy in weight relative to their value whereas such manufactured products as butter and cheese, for example, are easily stored for use over long periods of time, easily transported for use in any areas of the country or world, may be made from ungraded milk, and have a high value relative to the cost of transporting them. For these reasons the prices for Class II products vary little as distance from the consuming market becomes greater. These tendencies are borne out in the record by noting the tendency for comparable prices to be paid for ungraded milk going into similar uses in different parts of the Ohio and West Virginia milksheds. Accordingly, no adjustment should be made in the Class II price for reason of location of the plant to which the producer milk: is delivered.

In line with the economic considerations which affect the value of milk for fluid market uses when it is delivered by farmers to plants located some distance from the consuming market, it is necessary and appropriate that the prices paid producers delivering milk to plants to which location differentials apply also should be reduced to reflect the lower value of such milk f. o. b. the point of actual delivery (in contrast to its value when delivered to plants in the marketing area).

Butterfat differentials. In an earlier section of this decision it was concluded that butterfat and skim milk should be accounted for separately for classifica-tion purposes. It will be necessary, therefore, to adjust Class I and Class II milk prices in accordance with the average test of milk in each class by a butterfat differential that will reflect differences of value due to variations in the butterfat content in each product. The basing point from which such adjustments are made should be 3.5 percent butterfat. This is the basing point used in the Federal milk marketing areas with which the Wheeling and Clarksburg markets must be aligned. Since the actual cost to a handler for a given quality of milk will be the same regardless of what basing point is used, it seems desirable to have them stated in terms comparable with those used for most of the other milk distributed in nearby Ohio-West Virginia areas.

Because of the necessity for appropriate price alignment, the butterfat differentials for Class I and Class II milk should be equivalent to the values provided in nearby Federal order markets for adjusting the class prices or variations in butterfat content. This is necessary and desirable since the level of class prices proposed in this decision are in alignment with those in the nearby regulated markets. For each one-tenth of one percent of butterfat above or below 3.5 percent, the Class I price would be increased or decreased, respectively, by the value obtained by multiplying the

Chicago butter price for the preceding month by 0.13. The Class II butterfat differential would be determined by multiplying the Chicago butter price for the current month by 0.115.

The use of butterfat differentials in this manner follows standard practices in most fluid milk markets for adjusting for butterfat variations. In order that the Class I butterfat differentials may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I differential at the same time that the Class I price is announced.

Class II prices and butterfat differentials will not be announced until after the end of the month. Although handlers will not know the cost of such milk as it is utilized, they will know that their cost will follow that of their principal competitors for manufactured outlets.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class prices provided in the order. The producer butterfat differential in no way affects the differentials used in calculating a handler's obligation at class prices but merely prorates returns among producers whose mill: differs in butterfat test.

Compensatory payments on unpriced milk. Both the Wheeling and the Clarksburg orders provide for marketwide pools. Under this type of pooling plan, handlers whose proportion of utilization in Class I is greater than the market average make payments into a producer-settlement fund and those handlers whose proportion of utilization in Class I is less than the average for the market receive payments out of the same fund.

Under certain circumstances, plants engage primarily in the manufacture of milk into dairy products or in supplying other fluid markets have an incentive to place their plants under regulation for the sole purpose of obtaining payments out of the producer-settlement fund. If a plant loses fluid sales in another area temporarily, it may seek to join a market pool in order to continue to pay farmers a blended price even though such milk is used in the lower-priced manufactured product uses. A manufacturing plant processing a specialty product for which a regular supply of Grade A milk is desired may seek to join a market pool in order to pay producer suppliers the blended price for Grade A milk although only a manufacturing value use for the milk is available. If such handlers are entirely free to decide when they will or will not share in the market pool, their decisions normally would be made to join the pool when they would draw payments from the equalization fund. Such action, however, reduces returns to those farmers whose milk constitutes the regular source of supply of Class I milk for each marketing area.

It is necessary to insure, therefore, that milk which in fact constitutes the regular and normal supply for each marketing area be distinguished from milk which might otherwise enter the marketing area. The pool plant definitions of the orders proposed herein are designed to identify the regular and normal sources of supply for the Wheeling and the Clarksburg marketing areas. Any plant, regardless of location, may bring itself under regulation by performing in the manner required. Any plant may relieve itself of regulation by no longer operating in a way that brings it within the scope of the orders. Under the circumstances, the decision as to whether a plant will be fully regulated or entirely unregulated is determined by the decision of the plant operator.

Any milk sold in the marketing area must, of course, conform to the sanitary requirements imposed by the local health authorities. However, handlers may meet these requirements without becoming regular and dependable sources of supply for the market (their milk may have been obtained as a supplemental supply during periods of emergency or their sales may be an extremely small portion of a primary distribution in some other area) Clearly, it is not possible to identify regular and normal supplies for either the Wheeling or Clarksburg areas solely on the basis of sanitation requirements.

Neither is the shipment of milk to a marketing area for Class I utilization a practical basis for identifying the milk which should be fully regulated under the order. There are situations in which plant operators may find it economical or desirable to make shipments of small quantities of milk into a marketing area, and with respect to which it is neither necessary nor desirable in terms of effective regulation to bring the operators of such plants under full regulation. For instance, a plant which is associated with another market may find it advantageous to ship milk to a plant regulated by an order in order to have such milk converted into manufactured dairy products. It is quite possible, however, through misunderstanding, or from errors of estimating the utilization of milk, for milk intended for utilization in Class II products to be assigned a Class I classification. If through such accident or misunderstanding a plant were placed completely under regulation, considerable hardship, unnecessary to effective regulation, might result.

Since neither health regulations nor the possibility that some milk from a plant may be used for Class I purposes in the marketing area provides an adequate measure of a plant's regular status in a market, the pool plant provisions as previously described must be based on regular performance. Such regular and substantial supplies are fully priced under the order and participate in the equalization pool.

The classified price plan and the minimum prices for each such class set forth for each order proposed herein will be

fully effective only on producer milk and on plants subject to full regulation under the respective order. However, as pointed out previously in connection with the findings and conclusions relative to what plants and what milk will be fully subject to each order, milk may be disposed of for Class I purposes in either marketing area by and from plants not subject to full regulation of an order. Such unregulated plants may sell Class I milk in a regulated area directly on routes as defined herein, or they may sell it in bulk form to pool plants that do, in turn, use it in supplying their Class I outlets. There are no provisions in either order that prohibit any plant from selling milk directly or indirectly in the marketing areas. The problem created by sales from unregulated plants similar to those just described is that such plants are not required by terms of either order to pay producers the minimum class prices based on the utilization made (and verified by audit) of the milk. Some means must be found therefore to offset, or neutralize, the cost advantage an unregulated plant will have in disposing of unpriced milk in the regulated Class I market in competition with plants subject to full regulation under either order.

The competitive advantage accruing to plants not fully regulated by an order arises in this manner. It is necessary and customary for each fluid milk market to carry a necessary reserve of Grade A milk over actual Class I sales on a year round basis to insure an adequate supply of milk to meet irregular amounts of fluid milk products consumed each day. Although the reserve milk is of the same quality as that disposed of as Class I milk and is readily available for such purposes it must be manufactured into products having a lower use value than fluid milk products and returns to producers and plants somewhat less than the Class I price. These factors operate to give plants a real financial incentive to find means to sell excess milk at prices somewhat less than current Class I levels so long as the price is higher than its value when used in manufactured dairy products. The role of the compulsory classification system and minimum prices for such classes as set forth in each Federal milk order is to insure that the price competition from such excess milk will not break the market price for Class I milk, thereby destroying the premium prices necessary to encourage Grade A production. The end result of that would be to destroy producers' incentive to supply the milk needed by consumers. Because the classified pricing program of each order is applicable only to fully regulated plants, it is necessary to provide continued stability of the market by neutralizing any advantages unregulated plants may attain with respect to sales in the regulated market.

The orders proposed herein seek to remove price advantages among handlers by requiring a compensatory payment on unpriced milk utilized in Class I. Such a payment will not bring the originating plant under full regulation yet it will remove any advantage to the unregulated plants.

One further factor is important in this respect—the rate of compensatory payment must be one that is appropriate to the marketing conditions and organizational structure in each area. rate must not be so low as to permit a handler to have any advantage in selling unpriced milk as Class I in the marketing area nor should the rate be so high that it will deter suppliers of unpriced milk who supply needs of the market and yet are not in a position to gain an unfair advantage through the sale of such milk. In addition, a payment must be one which is administratively feasible and which does not incur unjustified administrative inconvenience or expense.

Several alternative methods of determining the rate of the compensatory payments could be considered. One might be a rate equal to the difference between the Class I price and the price actually paid by a handler for other source milk of Grade A quality Under the circumstances which prevail in the Wheeling and Clarksburg marketing areas, a handler normally would come into possession of this type of other source milk by purchasing it from an unregulated milk plant. Under these circumstances, a handler receives milk which is at a different stage in the marketing process from the milk priced under either order. Order prices apply to milk as received at the first plant from individual farmers. The price paid by a handler for other source milk applies to milk which has already been received at the first plant, weighed, tested, cooled and placed in a transportation conveyance. Obviously, under these conditions, a handler generally would pay more for such milk than he would for milk received directly from farmers, since the plant operator who first receives the milk from farmers must necessarily obtain a markup if he is to be recompensed for the services he has performed on the

In some situations, the purchase of other source milk might be made from a plant operated by the same company as the regulated plant. Such a transaction would be primarily a matter of bookkeeping within the same company, yet the compensatory payments into the equalization fund could be avoided, and an advantage gained, merely by stating the price for the milk as the same as the Class I price. Even between plants controlled by different companies, the advantage of showing that the price at which the milk was exchanged was at least as high as the Class I price would give great incentive to a "paper transaction" in order to avoid compensatory payments to the producer-settlement fund while undisclosed payments were made to offset such action. Under these circumstances, it is impractical from an administrative standpoint to provide for a payment the actual amount of which is within the control of parties to the transaction. It is essential instead that the payment be computed on an objective basis and that it be equal for all handlers for similar transactions.

Another possible rate of payment would be based on the difference be-

tween the price paid by the first receiver to farmers and the Class I price. However, from evidence presented at the hearings it is clear that this method would also be impractical under the circumstances prevailing in the Wheeling and Clarksburg markets. The primary reason is that the payment plans used by unregulated operators generally include such varying practices as paying uniform prices regardless of utilization. paying on a base and excess plan, paying irregular and non-uniform premiums. absorbing transportation charges, and paying on a variety of butterfat and location differentials. This wide variety of payment plans would render impossible an accurate ascertainment of the actual prices paid to farmers by the first receiver for any particular lot of milk.

The only economical and administratively feasible method for dealing with the problem of an appropriate rate of compensatory payment is to base it on the value of unpriced milk under the conditions existing in each area. An equitable payment thus becomes one that makes up the difference between the opportunity cost of unregulated milk (its value at the lowest use) and the price under the applicable order for milk going into comparable uses. Such a rate of payment based on the most economical cost of other source milk available to handlers in each area will remove, as far as is administratively possible, any clear advantage one handler may obtain relative to his competitors by obtaining unregulated milk and substituting it for producer milk in Class I.

By the very nature of fluid milk operations, as explained earlier, handlers have milk that is produced for, but is not used in Class I products. In and around both the Wheeling and Clarksburg markets this surplus milk must be used by being processed into manufactured dairy products. Therefore, the opportunity cost of surplus milk is its alternative value for manufacturing purposes. It is reasonable to conclude that milk could be obtained at prices reflecting its value as surplus milk in these markets during such times as any considerable volume of Grade A milk must be disposed of as surplus by unregulated plants in that general area.

The Wheeling and Clarksburg markets are located close to a large milk producing area and within easy reach of a large number of fluid milk markets (in which many distributors will have supplies of surplus Grade A milk available on a year round basis) It is concluded that a rate calculated as the difference between the Class I price and the Class II price is the only rate that will be fully effective in dealing with the problem of integrating receipts of occasional other source milk (when used as Class I) into the classification and pricing plan set forth in the proposed orders.

This rate is appropriate for all purchases of other source milk by handlers and for sales direct to consumers. The terms of the orders proposed herein would require complete pricing and pooling of all milk at a distributing plant from which as much as five percent of the receipts are disposed of as Class I

milk directly to consumers in the marketing area. Thus plants which are exempted from the complete pricing provisions could have only a very small proportion of their business in the marketing area. This exemption figure is established to provide for possible occasional route sales in either marketing area. Such occasional sales or small quantities fall within the category of surplus to such a handler's regular business in another fluid or manufacturing market.

The compensatory payments required by these orders should not be assessed at times when total supplies of producer milk in a market are not adequate to cover Class I needs and reasonable re-The Wheeling and Clarksburg serve. markets should be considered short of producer milk whenever receipts from producers on a marketwide basis are less than 110 percent of the gross Class I utilization in pool plants. Under these conditions no individual handlers can obtain other source milk without a compensatory payment merely by buying short from his own producers; he must either take on sufficient supplies for his own use or depend upon other handlers who have supplies in excess of their own Class I needs.

No compensatory payments are required under either order on milk classified and priced under any other Federal order. The necessity for close price alignment between the Wheeling market and adjacent markets in Ohio, and between the Clarksburg market and adjacent markets in West Virginia, has already been described. Because the Class I prices in all these markets will be closely aligned, there is little chance that handlers in any one of the markets can achieve a lasting competitive advantage over handlers regulated by any of the other Federal orders. Handlers operating plants regulated by other Federal milk orders could not sell surplus milk in either the Wheeling or Clarksburg markets for Class I use without accounting for it at the Class I price (because all orders require handlers to pay for producer milk on a classified use basis)

All funds collected from compensatory payments should be added to the producer-settlement fund. The handler regulated by the respective order should be obligated to make the compensatory payment to the producer-settlement fund. There will be no difference in actual price paid for milk whether the payment is made by the regulated handler or by the operator of the unregulated plant from which the other source milk was obtained. Because the regulated handler makes the actual distribution of the milk in the marketing area, and because he reports its utilization to the market administrator, he is, from the administrative viewpoint, the logical one to make the payment.

Class I milk under each order is priced at the point where the milk is received from producers, hence the compensatory payments on other source milk should be computed at the same stage of the marketing process to be directly comparable. No allowances are made in an order for the costs and profits of handiers in moving producer milk through subsequent stages of marketing; neither should they be made for other source milk.

Payments to producers—(a) Type of pool. Each order should provide that the proceeds from the sale of milk in both classes by all handlers be combined and distributed to producers through a "market-wide" type of equalization pool. Under this type of pool each producer shipping to one of the Federal order markets provided for herein will receive minimum prices that are uniform with those received by all producers delivering milk to the same market. The "blend" price, and the "base" and "excess" prices during the months of March through July, will be a weighting of the proportions of all producers' milk paid for at Class I and Class II prices, and will, m effect, return to each producer his share of the sales of his respective market.

In both the Wheeling and Clarksburg markets the Dairymen's Cooperative Sales Association, the principal producers cooperative association, has for many years sold the milk of its member-producers under a classification and pricing plan generally founded on the same principles as underlie market-wide equalization of producer prices under a Federal milk order program. The proceeds from the cale of milk under the cooperative price plans were combined and distributed through a market-wide roof of their producers operated separately for each marketing area. Under the marketing conditions and the organizational structure of the industry in both Wheeling and Clarksburg as set forth in the record, it is clear that the market-wide type of equalization pool is a necessary part of any effective program to establish and maintain orderly marketing and pricing conditions in each area.

A market-wide pool will permit any handler to bid on such business as that offered by military installations and other public institutions and to obtain the supplies for such sales without upsetting the market whenever the business might shift from one handler to another.

The majority of handlers in each market are not equipped to process reserve and surplus milk in their own plants. For this reason, and those already pointed out in the discussion of the necessity for an appropriate Class II price. it is imperative in both the Wheeling and Clarksburg markets that a pool be established that will provide for an equitable sharing, particularly during the flush production season, of the lower returns that are inevitable with an adequate and necessary reserve of milk. Because many plants do not have facilities for processing reserve and surplus mill:, the adoption of an individualhandler pool, wherein plants operating on a Class I basis can pay a higher blend price than those who would carry the reserve needs of the market, would automatically deter handlers from handling such milk or from equipping their plants for that purpose. The burden of carrying the necessary reserve supplies of mill: would continue to be shouldered by only a part of the producers who share in the year around Class I sales in each area.

The producers cooperative association assumes the responsibility and markets some of the reserve and surplus milk in both the Wheeling and Clarksburg markets. A market-wide pool will facilitate the movement of milk supplies by the association between handlers to meet their individual needs or to those nonpool processing plants that can make the most efficient use of such milk. A market-wide pool will aid the market in retaining qualified, experienced and willing producers during periods of seasonal surpluses (by permitting them to receive the market-wide uniform price) hence their milk will be available to fill the Class I requirements of the market at other seasons of the year. These factors, taken in conjunction with the variations in amount of reserve supplies among plants, all support the adoption of a market-wide pool.

Base-excess plan. A base and excess plan of distributing among producers returns for milk should be employed in connection with the market-wide pool established herein for each marketing area.

Although data with respect to receipts of milk are madequate to determine the exact seasonal variation for each entire marketing area, the record evidence does indicate that receipts vary widely relative to Class I sales between the summer and winter months. In addition, some handlers have difficulty in utilizing efficiently all milk delivered to them during periods of seasonally high production. Consequently there is a need for an added incentive to maintain production in the fall and winter months relative to that of the spring and summer months. Base and excess plans are effective means of improving the seasonal pattern of milk deliveries because they relate producer returns directly to delivery of additional milk in the fall and winter as compared with usual deliveries in the spring and summer. Such a plan will help to achieve a production pattern more nearly fitted to the sales pattern for fluid milk products in each area.

The base excess plan as a means of distributing returns to producers was proposed by the producers' cooperative association for both marketing areas. Some form of base and excess plans have been used by the producers' cooperative association in the Wheeling and Clarksburg markets for many years. In addition, non-member producers delivering milk to handlers in both marketing areas now are also paid in accordance with various base-excess plans operated on a marketwide basis, as in Steubenville, or on an individual handler basis, as in the Clarksburg area. Thus both marketing areas have a history of producer participation in base-excess plans and both producers and handlers indicated their approval of this type of incentive for encouraging more even seasonal production.

The base excess plan proposed herein would establish for each producer a base equal to his average daily deliveries during the four months of September through December. If a producer did

not deliver milk to the market during the entire period, the days of actual delivery from the first day of delivery but not less than 90 would be used.

During the months March through July separate uniform prices would be computed for base milk and excess milk for the purpose of allocating Class I sales first to base milk. Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days in the month during which he delivers milk to any pool plant. The excess milk price would be the Class II price except in those months when the total Class I sales exceed the total quantity of base milk. During such months the excess milk price would be a blend of Class I and Class II usage of excess milk. Provision is made for producers who may enter the market after the start of the base-forming period to establish a full base by delivering milk a minimum of 90 days during the specified period. Producers delivering milk for less than 90 days will have their bases calculated by dividing their total deliveries during the base-forming period by 90. The base-operating period (when payments are made for base milk and excess milk) should be limited to the 5-month period March-July. These are the months in which the production of milk and the inadequacy of surplus processing facilities combine to create difficult marketing conditions.

Any producer should be permitted to transfer his entire base provided the market administrator is given advance notice and the transfer is made as of the first of a month. Permitting bases to be so transferred will alleviate situations wherein a producer discontinues the production of milk before the end of the base-paying period of March-July. Such a provision will give a producer added incentive to increase production during the September-December period because he can benefit from all the base he can establish even though he discontinues milk production in the spring. This action will encourage a more level pattern of seasonal production, and is, therefore, compatible with the need for and the purpose of a base-excess plan.

(b) Payments to individual producers and to members of cooperative associations. Handlers should make payments to each producer for milk delivered by such producer at the appropriate uniform price. Payments due any producer for milk should be paid by the handler to a cooperative association that makes a written request for such payments and if the producer has given the cooperative association written authorization, in the form of a contract or in any other form. to collect such payments. The association's request should also agree to indemnify the handler for any loss incurred because of an improper claim. In making such payments for producer milk to a cooperative association the handler should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amount of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary so the cooperative association can make proper distribution of the money it collects to the producer-members for whom it makes collections.

Qualified cooperative associations of dairymen, if they so request, should be permitted to receive payment from handlers for their producer-members as a group. A provision authorizing handlers to make payment directly to such qualified cooperative associations for milk received from producer-members is necessary to enable the association to carry out their essential functions authorized by the enabling act. A cooperative association, if it is to carry out these essential functions, must have full authority in the collective bargaining and selling of members' milk.

The record shows that the cooperative association operating in both the Wheeling and Clarksburg areas markets surplus producer milk during months of flush production. This milk may be sold within or outside the marketing area. Such sales may result in financial losses or gains to the association, hence the association must be in a position to spread such losses or gains over the entire membership if it is to handle such milk effectively and efficiently. Furthermore, the cooperative association representing producers in these markets also represents producers in several other fluid milk markets. The Agricultural Marketing Agreement Act authorizes such an association to collect payments on behalf of all its members for milk caused to be marketed by such association and to reblend the entire sales. The order should provide that payment to such a cooperative association is a proper satisfaction of the payments required by the orders to be made to individual producer members.

(c) Producer-settlement fund. Since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, some method of balancing these amounts is necessary, A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund; and all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal, except for minor differences that may result from rounding of uniform prices. In order to permit this rounding of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve

should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the proposed order should be sufficient for these purposes. This reserve would be adjusted each month,

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producersettlement fund should be paid as soon as the balance in the fund is sufficient. and handlers should then complete payments to producers. In order to reduce the possibility of this occurring, milk received by any handler who has not made payments required of him into the producer-settlement fund should not be considered in the computation of the uniform price in subsequent months until such handler has completed all delinquent payments.

(e) Other administrative provisions. Certain other provisions are needed in the orders to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

Terms and definitions. In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Other terms defined in the proposed orders are common to many other Federal milk orders.

Market Administrator Provision should be made for the appointment by the Secretary of a market administrator to administer each order and to set forth the powers and duties for such agency essential to the proper functioning of his office.

Records and reports. Provisions should be included in the orders to advise handlers that they are required to maintain adequate records of their operations and to make the reports necessary to establish classification of producer milk and payments due for such milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator.

It should be provided that the market administrator report to each cooperative association, which so requests. amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the utilization of members' milk in each handler's plant will be prorated to each class in the proportion that total receipts of producer milk were used in each class by such handler. In addition to the regular reports of handlers, provision is made for the handler, prior to the diversion of the milk of a producer, to notify the market administrator and the cooperative association, if such producer is a member of an association of his intention to divert such milk. These reports are necessary if a cooperative association or the market administrator are to carry out marketing services for producers.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, and such facilities as are necessary to determine the accuracy of the information reported to the market administrator as he may deem necessary or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled and to verify all payments required under the orders.

It is necessary that handlers retain records to prove the utilization of the milk received from producers and that proper payments were made therefor. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records be kept for a reasonable period of time.

The orders should provide for specific limitations of the time that handlers should be required to retain their books and records and of the period of time in which obligations under the orders should terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F. R. 444). That decision covering the retention of records and limitations of claims is equally applicable in this situation and is adopted as a part of this decision.

Expense of administration. Each handler should be required to pay the market administrator as his pro rata share of the cost of administering each order not more than 4 cents per hundredweight or such lesser amounts as the Secretary may, from time to time, prescribe on (a) producer milk (including such handler's own production), (b) other source milk in pool plants which is allocated to Class I milk and (c) Class I milk disposed of in the marketing area from a nonpool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers' own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. These plants must be checked to verify their

status under the order. Assessment of administrative expense on such milk sold in the marketing area will help defray the costs of such checking.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 4 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 4 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in each order for furnishing market services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producer receiving the service. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is need for a marketing service program in connection with the administration of orders in these areas. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are in accordance with the pricing provisions of the orders, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An additional phase of the marketing service program is to furnish producers with correct market information. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a market-wide basis to all producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. The briefs contained suggested findings of fact, conclusions and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request

to make such findings or to reach such aged and from which any fluid milk prodconclusions is denied.

Recommended marketing agreements and orders. The following orders regulating the handling of milk in the Greater Wheeling, West Virginia marketing area and in the Clarksburg, West Virginia marketing area are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The proposed marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the recommended orders.

Recommended Order Regulating the Handling of Milk in the Greater Wheeling, West Virginia, Marketing Area.

DEFINITIONS

§ 1002.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et

§ 1002.2 Secretary "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1002.3 Department of Agriculture. "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1002.4 Person. "Person" means any individual, partnership, corporation. association, or other business unit.

§ 1002.5 Greater Wheeling market-ing area. "Greater Wheeling marketing area," hereinafter called the "marketing area" means all territory included within the boundaries of (a) Jefferson and Belmont Counties, Ohio, (b) Hancock, Brooke, Ohio and Marshall Counties, West Virginia, (c) Liverpool, St. Clair, Wellsville, Yellow Creek, Madison and Washington townships in Columbiana County, Ohio, and (d) Londonderry Oxford and Millwood townships in Guernsey County, Ohio.

§ 1002.6 Producer "Producer" means any person except a producer handler who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority having jurisdiction in the marketing area, which milk is received during the month at a pool plant: Provided, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of March through July or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

§ 1002.7 Approved plant. "Approved plant" means all of the buildings, premises and facilities of a plant (a) in which milk or skim milk is processed or pack-

uct is disposed of during the month on routes (including routes operated by vendors) or through plant stores to wholesale or retail outlets (except pool plants) located in the marketing area, or (b) from which milk or skim milk eligible for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant.

§ 1002.8 Distributing plant. tributing plant" means an approved plant from which Class I milk equal to not less than 45 percent of its receipts of producer milk and fluid milk products from other pool plants during the months of April, May and June, and not less than 55 percent in all other months, is disposed of during the month on routes or through plant stores to wholesale or retail outlets (except pool plants) and from which Class I milk equal to no less than 5 percent of such receipts is disposed of during the month on routes or through plant stores to wholesale or retail outlets (except pool plants) located in the marketing area.

§ 1002.9 Supply plant. "Supply plant" means an approved plant from which fluid milk products equal to no less than 55 percent of its receipts of producer milk during the months of September, October, November, December and January are shipped during such month to distributing plants: Provided, That if a supply plant qualifies in each of the designated months in the manner prescribed in this section, such plant shall, upon written application to the market administrator on or before January 31 following such compliance, be designated as a pool plant until the end of the following August.

§ 1002.10 Pool plant. "Pool plant" means a distributing plant, or a supply

§ 1002.11 Nonpool plant. "Nonpool plant" means any milk plant other than a pool plant.

§ 1002.12 Handler"Handler" means: (a) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1002.6; or (b) Any person in his capacity as the operator of one or more approved plants.

§ 1002.13 Producer-handler "Producer-handler" means any person who operates a dairy farm and a distributing plant which during the month has no other source milk or producer milk.

§ 1002.14 Producer milk. "Producer milk" means only that skim milk and butterfat contained in milk (a) received at the plant directly from producers, or (b) diverted from a pool plant to a nonpool plant (except a nonpool plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 1002.6.

§ 1002.15 Fluid milk product. "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream or any mixture in

fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, egg nog, ice cream mix and aerated cream)

§ 1002.16 Other source milk. "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b). Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

Cooperative association. "Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the

"Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members: and

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(c) To have all of its activities under the control of its members.

§ 1002.18 Chicago butter price. "Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 1002.19 Base milk. "Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1002.00, multiplied by the number of days in such month.

§ 1002.20 Excess milk. "Excess milk" means milk received at pool plants from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 1002.90.

MARKET ADMINISTRATOR

§ 1002.25 Designation. The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary,

§ 1002.26 Powers. The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and pro-

visions:

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1002.27 Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not

limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and

provisions:

- (c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator:
- (d) Pay out of the funds received pursuant to § 1002.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1002.85 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;
- (e) Keep such books and records as will clearly reflect the transactions provided for in this section, and upon request by the Secretary, surrender the same to such other person as the Sec-

retary may designate;

- (f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 1002.30 and 1002.31 or payments pursuant to §§ 1002.80 through 1002.86;
- (g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary.
- (h) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;
- (i) Verify all reports and payments of each handler by audit if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary.
- (j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and
- (k) On or before the date specified publicly announce, by posting in a con-

spicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address a notice of, the following:

(1) The 5th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II milk price, and the Class II butterfat differential, both for the preceding month, and

(2) The 11th day of each month, the uniform prices, computed pursuant to §§ 1002.71 and 1002.72, and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS AND FACILITIES

§ 1002.30 Reports of sources and utilization. On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his approved plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

- (a) The quantities of skim milk and butterfat contained in:
 - (1) Producer milk;
- (2) Fluid milk products received from other pool plants;
 - (3) Other source milk;
- (4) Inventories of fluid milk products on hand at the beginning of the month;
- (b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk outside the marketing area, and inventories of fluid milk products on hand at the end of the month.
- § 1002.31 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;
 (b) Each handler, except a producer-
- handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:
- (1) On or before the 7th day of each of the months of April through August the aggregate quantity of base milk received at his pool plant(s) for the preceding month,
- (2) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month which shall show for each producer: (i) His name and address. (ii) the total pounds of milk received from such producer, including for the months of March through July, the pounds of base milk, (iii) the days for which milk was received from such producer if less than the entire month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions,
- (3) On or before the day prior to diverting producer milk pursuant to § 1002.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted, and
- (4) Such other information with respect to his sources and utilization of

butterfat and skim milk as the market administrator may prescribe.

- § 1002.32 Records and facilities. Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market adminitrator to verify or establish the correct data for each month with respect to:
- (a) The receipt and utilization of all skim milk and butterfat handled in any form:
- (b) The weights and tests for butterfat and other content of all products handled:
- (c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month: and
- (d) Payments to producers, including any deductions authorized by producers and disbursement of money so deducted.
- § 1002.33 Retention of records. All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such threeyear period, the market administrator notifies the handler in writing that the retention of such books and records. or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1002.40 Skim milk and butterfat to be classified. The skim milk and butterfat to be reported for pool plants pursuant to § 1002.30 (a) shall be classified each month pursuant to the provisions of §§ 1002.41 through 1002.45.

§ 1002.41 Classes of utilization. Subject to the conditions set forth m §§ 1002.42 through 1002.45, the classes of utilization shall be as follows:

- (a) Class I milk. Class I milk shall be all skim milk and butterfat; (1) disposed of from the plant in the form of fluid milk products, except those classifled pursuant to paragraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk; and
- (b) Class II milk. Class II milk shall be all skim milk and butterfat; (1) used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of as skim milk and used for livestock feed; and (4) in shrinkage not to exceed 2 percent, respectively, of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1002.6)

and other source milk: *Provided*, That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1002.6) and other source milk respectively.

§ 1002.42 Responsibility of handlers. All skim milk and butterfat to be classified pursuant to this order shall be classified Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 1002.43 Transfers. (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producerhandler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified Class I milk, unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 1002.30: Provided, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 1002.45;

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified Class I milk:

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool milk plant shall be classified Class I milk unless, (1) the transferee-plant is located less than 250 miles from the Court House in Wheeling, West Virginia, by the shortest hard surfaced highway distance, as determined by the market administrator. (2) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1002.30 for the month within which such transaction occurred, (3) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (4) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: Provided, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use, the pounds transferred in excess of such actual use shall be classified Class I milk; and

(d) Skim milk and butterfat transferred in bulk form as cream to a non-pool plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1002.30, (2) the handler attaches tags or labels to each container of such cream bearing

the words "for manufacturing uses only," (3) the handler gives the market administrator sufficient notice to allow him to verify such Class II disposition in advance, (4) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat as such plant which are made available if requested by the market administrator for the purpose of verification, and (5) such cream is not disposed of under a Grade A label.

§ 1002.44 Computation of skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1002.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: Provided, That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1002.45 Allocation of skim milk and butterfat classified. (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1002.41 (b),

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk except that to be subtracted pursuant to subparagraph (3) of this paragraph: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk, the pounds of skim milk in Class I milk in Class

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was received from plants regulated under other orders issued pursuant to the act, less any equivalent amounts of skim milk in other source milk allocated to Class I milk at each of such plants, respectively. Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk,

(5) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds

of skim milk remaining in the class to which assigned, pursuant to § 1002.43 (a).

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph,

(7) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk;

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class.

MINIMUM PRICES

§ 1002.50 Basic formula price. The higher of the prices computed pursuant to paragraph (a), (b), or (c) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) The average of the basic or field prices per hundredweight reported to nave been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Mt. Pleasant, Mich. Borden Co., New London, Wis. Borden Co., Orfordville, Wis. Carnation Co., Oconomowoc, Wis. Carnation Co., Sparta, Mich. Pet Milk Co., Belleville, Wis. Pet Milk Co., Coopersville, Mich. Pet Milk Co., Hudson, Mich. Pet Milk Co., New Giarus, Wis. Pet Milk Co., Wayland, Mich. White House Milk Co., Manitowoc, Wis. White House Milk Co., West Bend, Wis.

(b) The price resulting from the following computation:

(1) Multiply by 6 the simple average

as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month for which prices are being computed,

(2) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month, and

(3) Divide by 7 and to the resulting amount add 30 percent; and then multiply by 3.5;

(c) The price per hundredweight computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 3.5,

(2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.

§ 1002.51 Class prices. Subject to the provisions of §§ 1002.52 and 1002.53, the minimum class prices per hundredweight of milk containing 3.5 percent butterfat to be paid by each handler for milk received at his pool plant from producers during the month shall be determined as follows:

(a) Class I milk price. The Class I milk price shall be the basic formula price (computed pursuant to § 1002.50) for the preceding month plus the followmg amount for the month indicated:

Amount March through July_____ \$1.30 All others_____ 1.90

Provided. That this Class I price shall be increased or decreased by the amount of any "supply-demand adjustment" effective in the calculation of the Class I price for the preceding month under the terms of the order, as amended, regulating the handling of milk in the Stark County, Ohio, marketing area (Order No. 63, Part

963 of this chapter) and
(b) Class II milk price. The Class II milk price shall be the basic formula price computed pursuant to § 1002.50: Provided, That for the months of April, May and June the price shall be reduced 20 cents if the Class I price for the month is reduced by a supply-demand adjustment pursuant to the proviso in paragraph (a) of this section.

§ 1002.52 Butterfat differentials to handlers. For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1002.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) Class I price. Multiply the Chicago butter price for the preceding month by 0.13; and

(b) Class II price. Multiply the Chicago butter price for the month by 0.115.

§ 1002.53 Location differentials to handlers. For that milk which is received from producers at a pool plant located 60 miles or more from the City Hall of Wheeling, West Virginia, East Liverpool, Ohio or Steubenville, Ohio, whichever is nearest, by shortest hard surfaced highway distance, as determined by the market administrator, and which is assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 1002.51 (a) shall be reduced at the rate set forth in the following schedule according to the loca-

is received from producers:

Distance from the City Hall of Rate Wheeling, West Virginia, East per Liverpool or Steubenville, hundred-Ohio, whichever is nearest weight (miles) (cents) 60 but not more than 70______
70 but not more than 80_____ 15.0 16.5 80 but not more than 90____ 18.0 For each additional 10 miles or frac-1.0 tion thereof an additional

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 1002.45 (a) (1) through (4) and the comparable steps in § 1002.45(b) for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1002.54 Rate of compensatory payments. The rate of conpensatory payment per hundredweight shall be cal-culated as follows except that the rate shall be zero in any month in which total deliveries by producers are less than 110 percent of all handlers' Class I sales:

(a) Subtract the Class II milk price, adjusted by the Class II butterfat differential, from the Class I milk price adjusted by the Class I butterfat differential and adjusted by the location differential rates set forth in § 1002.53 for the location of the plant at which the milk was received from farmers.

§ 1002.55 Use of equivalent prices. If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1002.60 *Producer-handlers*. Sections 1002.40 through 1002.45, 1002.50 through 1002.53, 1002.61 and 1002.62, 1002.70 through 1002.75, and 1002.80 through 1002.87 shall not apply to a producer-handler.

§ 1002.61 Plants subject to other Federal orders. Upon application to the market administrator and a subsequent determination by the Dairy Division, Agricultural Marketing Service, a plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk is disposed of from such plant to retail

tion of the pool plant where such milk or wholesale outlets (except pool plants or nonpool plants) in the Greater Wheeling marketing area than in the marketing area regulated pursuant to such order; and

(b) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of September through January.

§ 1002.62 Handlers operating non-pool plants. Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall on or before the 12th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of in the form of fluid milk products from such nonpool plant to retail or wholesale outlets (including deliveries by vendors and sales through plant stores) in the marketing area during the month, by the rate of compensatory payment calculated pursuant to § 1002.54.

DETERMINATION OF PRICES TO PRODUCERS

§ 1002.70 Computation of the value of producer milk for each handler. For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer mill: in each class computed pursuant to § 1002.45 by the applicable class price, total the resulting amounts, and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 1002.53;

(b) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1002.45 (a) (2) and (b) by the rate of compensatory payment as determined pursuant to § 1002.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 1002.45 (a) (7) and (b) by the applica-

ble class price; and

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1002.45 (a) (5) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1002.45 (a) (4) and (b) for the current month, whichever is less, respectively.

§ 1002.71 Computation of the uniform price. For each of the months of August through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the values computed pursuant to § 1002.70 for the producer milk of all handlers who submit reports prescribed in § 1002.30 and who are not in default of payments pursuant to § 1002.80 or § 1002.82;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1002.73, and multiply the result by the total hundredweight of such milk:

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials

pursuant to § 1002.80 (a) (2)

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund:

(e) Add the total amount of payment

due pursuant to § 1002.62;

- (f) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and
- (g) Subtract not less than 4 cents nor more than 5 cents.
- § 1002.72 Computation of uniform prices for base milk and excess milk. For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f. o. b. market, as follows:
- (a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 1002.30, and who are not in default of payments pursuant to §§ 1002.80 or 1002.82 as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply the hundredweight of milk not included in subparagraph (1) of this paragraph by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received

from producers;

(c) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk from the total value of producer milk for the month as determined according to the calculations set forth in § 1002.71 (a) through (d) then add the total amount of payments due pursuant to § 1002.62;

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f. o. b. market.

§ 1002.73 Butterfat differential to producers. The applicable uniform prices to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 1002.52, dividing by the total butterfat in producer milk and rounding to the nearest even tenth of a cent.

§ 1002.74 Location differential to producers. The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the City Hall of Wheeling, West Virginia, East Liverpool, Ohio, or Stubenville, Ohio, whichever is nearest, by the shortest hard surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the following rate:

Distance from the City Hall of Wheeling, West Vir-ginia, East Liverpool, Rate per Ohio, or Steubenville, Ohio, whichever is nearhundredweight est (miles) (cents) 60 but not more than 70__ 15.0 70 but not more than 80_____ 16.5 80 but not more than 90_____ 18.0 For each additional 10 miles or fraction thereof an additional___

§ 1002.75 Notification of handlers. On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1002.30 at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals thereof:

(b) For the months of March through July the amounts and value of his base and excess milk respectively, and the totals thereof;

(c) The uniform price(s) computed pursuant to §§ 1002.71 and 1002.72 and the butterfat differential computed pur-

'suant to § 1002.73; and

(d) The amounts to be paid by such handler pursuant to §§ 1002.82, 1002.85 and 1002.86, or 1002.62 and the amount due such handler pursuant to § 1002.83.

PAYMENTS

§ 1002.80 Time and method of payment for producer milk. (a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph,

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1002.85, (ili) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer. Provided, That if by such date such handler has not received full payment from the market administrator pursuant to § 1002.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator:

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month,

and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of March through July the total pounds of base milk received, (iii) the amount or rate and nature of any deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1002.84.

§ 1002.81 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1002.62, 1002.82 and 1002.84, and out of which he shall make all payments pursuant to §§ 1002.83 and 1002.84: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1002.82 Payments to the producer-settlement fund. On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1002.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 1002.83 Payments out of the producer-settlement fund. On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 1002.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1002.84 Adjustment of accounts. Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

Marketing services. ₹ 1002.85 Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1002.80, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the member-

ship agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1002.86 Expenses of administration. On or before the 15th day after the end of each month, each handler shall pay to the market administrator for each of his approved plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, (b) other source milk allocated to Class I milk pursuant to § 1002.45 (a) (2) and (b), or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant as determined pursuant to § 1002.62.

§ 1002.87 Termination of obligations. The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the mill: involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation,

(2) The month(s) during which the milk, with respect to which the obligation exists was received or handled, and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative:

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order

to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section &c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 1002.90 Computation of daily average base for each producer. Subject to the rules set forth in § 1002.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December, inclusive, or by 90 whichever is more.

§ 1002.91 Base rules. The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base calculated pursuant to § 1002.90 to each person for whose account producer milk was delivered to pool plants during the months of September through December: and

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: Provided, That if a base is held jointly, the entire base shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1002.92 Announcement of established bases. On or before February 15 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1002.100 Effective time. The provisions of this part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1002.101 Suspension or termination. The Secretary shall, whenever be finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 1002.102 Continuing obligations. If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 1002.103 Liquidation. Upon the suspension or termination of the provisions of this part, except §§ 1002.34, 1002.89 and 1002.91 through 1002.93, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If. upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1002.110 Agents. The Secretary may by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1002.111 Separability of provisions. If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Recommended Order Regulating the Handling of Milk in the Clarksburg, West Virginia, Marketing Area

DEFINITIONS

§ 1009.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 1009.2 Secretary. "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1009.3 Department of Agriculture. "Department of Agriculture" means the

United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1009.4 Person. "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1009.5 Clarksburg Marketing Area. "Clarksburg Marketing Area", hereinafter called the "Marketing Area" means all territory included within the boundaries of (a). Monongalia, Marion and Harrison Counties, (b) Grafton magisterial district in Taylor County, (c) Philippi magisterial district in Barbour County, (d) Leadsville magisterial district in Randolph County, (e) the city of Buckhannon in Upshur County and (g) the city of Kingwood in Preston County, all in the State of West Virginia.

Producer § 1009.6 "Producer" means any person except a producer handler who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority having jurisdiction in the marketing area, which milk is received during the month at a pool plant: Provided, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of March through July or on not more than 10 days during any other month. the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

§ 1009.7 Approved plant. "Approved plant" means all of the buildings, premises and facilities of a plant (a) in which milk or skim milk is processed or packaged and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to wholesale or retail outlets (except pool plants) located in the marketing area, or (b) from which milk or skim milk eligible for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant.

§ 1009.8 Distributing plant. "Distributing plant" means an approved plant from which Class I milk equal to not less than 45 percent of its receipts of producer milk and fluid milk products from other pool plants during the months of April, May, and June, and not less than 55 percent in all other months, is disposed of during the month on routes or through plant stores to wholesale or retail outlets (except pool plants) and from which Class I milk equal to no less than 5 percent of such receipts is disposed of during the month on routes or through plant stores to wholesale or retail outlets (except pool plants) located in the marketing area.

ber, and January are shipped during \$1009.9 Sunnly plant "Supply

§ 1009.9 Supply plant. "Supply plant" means an approved plant from which fluid milk products equal to no less than 55 percent of its receipts of producer milk during the months of September, October, November, Decem-

ber, and January are shipped during such month to distributing plants: Provided, That if a supply plant qualifies in each of the designated months in the manner prescribed in this section, such plants shall, upon written application to the market administrator on or before January 31 following such compliance, be designated as a pool plant until the end of the following August.

§ 1009.10 Pool plant. "Pool plant" means a distributing plant, or a supply plant.

§ 1009.11 Nonpool plant. "Nonpool plant" means any milk plant other than a pool plant.

§ 1009.12 Handler "Handler" means:
(a) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 1009.6; or (b) any person in his capacity as the operator of one or more approved plants.

§ 1009.13 Producer-handler "Producer-hander" means any person who operates a dairy farm and a distributing plant which during the month has no other source milk or producer milk.

§ 1009.14 Producer milk. "Producer milk" means only that skim milk and butterfat contained in milk (a) received at the plant directly from producers, or (b) diverted from a pool plant to a non-pool plant (except a nonpool plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 1009.6.

§ 1009.15 Fluid milk product. "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream, or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, egg nog, ice cream mix and aerated cream)

§ 1009.16 Other source milk. "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 1009.17 Cooperative association. "Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members:

(c) To have all of its activities under the control of its members.

§ 1009.18 Chicago butter price. "Chicago butter price" means the simple

average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 1009.19 Base milk. "Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1009.90, multiplied by the number of days in such month.

§ 1009.20 Excess milk. "Excess milk" means milk received at pool plants from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 1009.90.

MARKET ADMINISTRATOR

§ 1009.25 Designation. The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1009.26 Powers. The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions:

(b) To make rules and regulations to effectuate its terms and provisions:

(c) To receive, investigate, and report to the Secretary complaints of violations; and

tions; and
(d) To recommend amendments to the Secretary.

§ 1009.27 Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received pursuant to § 1009.86: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1009.85 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this section, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to §§ 1009.30 and 1009.31

through 1009.86:

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

or payments pursuant to §§ 1009.80

(h) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(i) Verify all reports and payments of each handler by audit if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary.

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order which do not reveal confidential information; and

information; and
(k) On or before the date specified publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mall to each handler at his last known address a notice of, the following:

(1) The 5th day of each month, the Class I milk price and the Class I butter-fat differential, both for the current month; and the Class II milk price, and the Class II butterfat differential, both for the preceding month, and

(2) The 11th day of each month, the uniform prices computed pursuant to §§ 1009.71 and 1009.72 and the producer butterfat differential, both for the preceding month.

REPORTS, RECORDS, AND FACILITIES

§ 1009.30 Reports of sources and utilization. On or before the 7th day after the end of each month each handler, except a producer-handler, shall report for each of his approved plants for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Producer milk,

(2) Fluid milk products received from other pool plants,

(3) Other source milk,

(4) Inventories of fluid milk products on hand at the beginning of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including separate statements as to the disposition of Class I milk outside the marketing area, and inventories of fluid milk products on hand at the end of the month.

§ 1009.31 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) Each handler, except a producerhandler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 7th day of each of the months of April through August the aggregate quantity of base milk received at his pool plant(s) for the preceding month,

(2) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month which shall show for each producer: (1) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of March through July, the pounds of base milk, (iii) the days for which milk was received from such producer if less than the entire month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions,

(3) On or before the day prior to diverting producer milk pursuant to § 1009.6 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted, and

(4) Such other information with respect to his sources and utilization of butterfat and skim milk as the market administrator may prescribe.

§ 1009.32 Records and facilities. Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form:

(b) The weights and tests for butterfat and other content of all products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1009.33 Retention of records. All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month

to which such books and records pertain: Provided, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1009.40 Skim milk and butterfat to be classified. The skim milk and butterfat to be reported for pool plants pursuant to § 1009.30 (a) shall be classified each month pursuant to the provisions of §§ 1009.41 through 1009.45.

§ 1009.41 Classes of utilization. Subject to the conditions set forth m §§ 1009.42 through 1009.45, the classes of utilization shall be as follows:

(a) Class I milk. Class I milk shall be all skim milk and butterfat: (1) Disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk; and

- (b) Class II milk. Class II milk shall be all skim milk and butterfat: (1) Used to produce any product other than a fluid milk product; (2) contained in inventories of fluid milk products on hand at the end of the month: (3) disposed of as skim milk and used for livestock feed; and (4) in shrinkage not to exceed 2 percent, respectively of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 1009.6) and other source milk: Provided, That if shrinkage of skim milk or butterfat is less than such 2 percent it shall be assigned pro rata to the skim milk or butterfat contained in producer milk (except that diverted pursuant to § 1009.6) and other source milk respectively.
- § 1009.42 Responsibility of handlers. All skim milk and butterfat to be classified pursuant to this order shall be classified Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.
- § 1009.43 Transfers. (a) Skim milk and butterfat transferred to a pool plant of another handler (except a producerhandler) in the form of fluid milk products shall, to the extent required, be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified Class I milk, unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 1009.30: Provided, That the skim milk or butterfat so

assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after the subtraction of other source milk pursuant to § 1009.45:

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall be classified Class I milk;

(c) Skim milk and butterfat transferred or diverted in bulk form as milk or skim milk to a nonpool milk plant shall be classified Class I milk unless, (1) the transferee-plant is located less than 250 miles from the Court House in Clarksburg, West Virginia, by the shortest hard surfaced highway distance, as determined by the market administrator, (2) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1009.30 for the month within which such transaction occurred, (3) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (4) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonpool plant in the use indicated in such report: Provided, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use. the pounds transferred in excess of such actual use shall be classified Class I milk; and

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1009.30, (2) the handler attaches tags or labels to each container of such cream bearing the words "for manufacturing uses only," (3) the handler gives the market administrator sufficient notice to allow him to verify such Class II disposition in advance, (4) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (5) such cream is not disposed of under a Grade A label.

§ 1009.44 Computation of skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1009.30 and compute the total pounds of skim milk and butterfat respectively, in Class I milk and Class II milk at all of the pool plants of such handler: Provided, That the skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1009.45 Allocation of skim milk and butterfat classified. (a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month,

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 1009.41 (b),

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk except that to be subtracted pursuant to subparagraph (3) of this paragraph: Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(3) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in fluid milk products received from plants regulated under an other order(s) issued pursuant to the act and subject to the Class I pricing provisions of such other order(s) Provided, That if the pounds of skim milk to be subtracted are greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk,

(4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: Provided, That if the pounds of skim milk in such inventory exceed the remaining pounds of skim milk in Class II milk the balance shall be subtracted from the pounds of skim milk remaining in Class I milk,

(5) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned, pursuant to § 1009.43 (a)

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph,

(7) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with Class II milk;

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class.

MINIMUM PRICES

§ 1009.50 Basic formula price. The higher of the prices computed pursuant to paragraph (a), (b) or (c) of this sec-

tion, rounded to the nearest whole cent, shall becknown as the basic formula price.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Location

Borden Co., Mt. Pleasant, Mich. Borden Co., New London, Wis. Borden Co., Orfordville, Wis. Carnation Co., Oconomowoc, Wis. Carnation Co., Richland Center, Wis. Carnation Co., Sparta, Mich. Pet Milk Co., Belleville, Wis. Pet Milk Co., Coopersville, Mich. Pet Milk Co., Hudson, Mich. Pet Milk Co., New Glarus, Wis. Pet Milk Co., Wayland, Mich. White House Milk Co., Manitowoc, Wis. White House Milk Co., West Bend, Wis.

(b) The pince resulting from the fol-

lowing computation:

(1) Multiply by 6 the simple average as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month for which prices are being computed,

(2) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month, and

(3) Divide by 7 and to the resulting amount add 30 percent; and then multi-

ply by 3.5;

(c) The price per hundredweight computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof,

and multiply by 3.5, and

- (2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.
- § 1009.51 Class prices. Subject to the provisions of §§ 1009.52 and 1009.53, the minimum class prices per hundredweight of milk containing 3.5 percent butterfat to be paid by each handler for milk received at his pool plant from producers during the month shall be determined as follows:
- (a) Class I milk price. The Class I milk price shall be the basic formula price (computed pursuant to § 1009.50) for the preceding month plus the following amount for the month indicated:

Month:		At	Amount	
March	through	July	\$1.55	
All oth	ers		2.15	

Provided: That this Class I price shall be increased or decreased by the amount of any "supply-demand adjustment" effective in the calculation of the Class I price for the preceding month under the terms of the order, as amended, regulating the handling of milk in the Stark County, Ohio, marketing area (Order No. 63, Part 963 of this chapter) and

(b) Class II mill: price. The Class II milk price shall be the basic formula price computed pursuant to § 1009.50: Provided, That for the months of April, May and June the price shall be reduced 20 cents if the Class I price for the month is reduced by a supply-demand adjustment pursuant to the proviso in paragraph (a) of this section.

§ 1009.52 Butterfat differentials to handlers. For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1009.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) Class I price. Multiply the Chicago butter price for the preceding month by 0.13; and

(b) Class II price. Multiply the Chicago butter price for the month by 0.115.

Location differentials to § 1009.53 handlers. For that milk which is received from producers at a pool plant located 60 miles or more from the City Hall of Clarksburg, West Virginia, by shortest hard surfaced highway distance, as determined by the market administrator, and which is assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 1009.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the City Hall of hundred-Clarksburg, West Virginia weight (miles) (cents) 60 but not more than 70_____ 29 70 but not more than 80_____ 80 but not more than 90_. For each additional 10 miles or fraction thereof an additional___

Provided, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II mill: in the plant to which transferred after making the calculations prescribed in § 1009.45 (a) (1) through (4) and the comparable steps in § 1009.45 (b) for such plant, such assignment to the transferring plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

S 1009.54 Rate of compensatory payments. The rates of compensatory payment per hundredweight shall be calculated as follows:

(a) Subtract the Class II milk price, adjusted by the Class II butterfat differential, from the Class I milk price adjusted by the Class I butterfat differential and the location differential rates set forth in § 1009.53 for the location of

the plant at which the milk was received from farmers. In any month in which total producer deliveries are less than 110 percent of all handlers' Class I uses the rate pursuant to this paragraph shall be zero.

§ 1009.55 Use of equivalent prices. If for any reason a price quotation required. by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1009.60 Producer - handlers. Sections 1009.40 through 1009.45, 1009.59 through 1009.53; 1009.61 and 1009.62, 1009.70 through 1009.75, and 1009.80 through 1009.87 shall not apply to a producer-handler.

§ 1009.61 Plants subject to other Federal orders. Upon application to the market administrator and a subsequent determination by the Dairy Division, Agricultural Marketing Service, a plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except pool plants or nonpool plants) in the Clarksburg marketing area than in the marketing area regulated pursuant to such other order;

(b) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of September through January.

§ 1009.62 Handlers operating nonpool plants. Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall, on or before the 12th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim mill: disposed of in the form of fluid milk products from such nonpool plant to retail or wholesale outlets (including deliveries by venders and sales through plant stores) in the marketing area during the month, by the rate of compensatory payment calculated pursuant to § 1009.54.

DETERMINATION OF PRICES TO PRODUCERS

§ 1009.70 Computation of the value of producer mill: for each handler. For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 1009.45 by the applicable price, total the resulting amounts, and add any amount necessary to reflect adjustments in location differential allowance required pursuant to the proviso of § 1009.53;

(b) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1009.45 (a) (2) and (b) by the rate of compensatory payment as determined pursuant to § 1009.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 1009.45 (a) (7) and (b) by the applicable class price; and

- (d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I milk price for the current month by the hundredweight of skim milk and butterfat remaining in Class II milk after the calculations pursuant to § 1009.45 (a) (5) and (b) for the preceding month or the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1009.45 (a) (4) and (b) for the curren month, whichever is less. respectively.
- § 1009.71 Computation of the uniform price. For each of the months of August through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, f. o. b. market, as follows:

(a) Combine into one total the values computed pursuant to § 1009.70 for the producer milk of all handlers who submit reports prescribed in § 1009.30 and who are not in default of payments pursuant

to §§ 1009.80 or 1009.82;

- (b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed to § 1009.73, and multiply the result by the total hundredweight of such milk;
- (c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 1009.80 (a) (2)
- (d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;
- (e) Add the total amount of payment due pursuant to § 1009.62;
- (f) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and
- (g) Subtract not less than 4 cents nor more than 5 cents.
- § 1009.72 Computation of uniform prices for base milk and excess milk.

For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f. o. b. market, as follows:

- (a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 1009.30, and who are not in default of payments pursuant to §§ 1009.80 or 1009.82 as follows: (1) Multiply the hundredweight of such milknot in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply the hundredweight of milk not included in subparagraph (1) of this paragraph by the Class I milk price, and (3) add together the resulting amounts;
- (b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;
- (c) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk from the total value of producer milk for the month as determined according to the calculations set forth in § 1009.71 (a) through (d) then add the total amount of payments due pursuant to § 1009.62;

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

- (e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f. o. b. market.
- § 1009.73 Butterfat differential to producers. The applicable uniform prices to be paid each producer shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 1009.52, dividing by the total butterfat in producer milk and rounding to the nearest even tenth of a cent.
- § 1009.74 Location differential to producers. The applicable uniform prices to be paid for producer milk received ata pool plant located 60 miles or more from the City Hall of Clarksburg, West Virginia, by the shortest hard surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the pool plant where such milk was received at the rates set forth in § 1009.53.
- § 1009.75 Notification of handlers. On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1009.30 at his last known address, a statement showing:

- (a) The amount and value of his producer milk in each class and the totals thereof:
- (b) For the months of March through July the amounts and value of his base and excess milk respectively, and the totals thereof;
- (c) The uniform price(s) computed pursuant to §§ 1009.71 and 1009.72 and the butterfat differential computed pursuant to § 1009.73; and
- (d) The amounts to be paid by such handler pursuant to §§ 1009.82, 1009.85, and 1009.86, or 1009.62 and the amount due such handler pursuant to § 1009.83.

PAYMENTS

§ 1009.80 Time and method of payment for producer milk. (a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant

to this paragraph.

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1009.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer · Provided, That if by such date such handler has not received full payment from the market administrator pursuant to § 1009.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balanco due from the market administrator:

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a)

of this section; and

- (c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:
- (1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month, and
- (2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of March through July the total pounds of base milk received, (iii) the amount or rate and nature of any deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1009.84.
- § 1009.81 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1009.62, 1009.82 and 1009.84, and out of which he shall make all payments pursuant to §§ 1009.83 and 1009.84: Provided, That any payments due to any handler shall be offset by any payments due from such handler.
- § 1009.82 Payments to the producersettlement fund. On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk as computed pursuant to § 1009.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.
- § 1009.83 Payments out of the producer-settlement fund. On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 1009.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.
- § 1009.84 Adjustment of accounts. Whenever audit by the market administrator of any reports, books, records or accounts or other verification discloses errors resulting in momes due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

Marketing services. ₹ 1009.85 Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1009.80, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1009.86 Expense of administration. On or before the 15th day after the end of each month, each handler shall pay to the market administrator, for each of his approved plants, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in (a) producer milk, (b) other source milk allocated to Class I milk pursuant to § 1009.45 (a) (2) and (b) or (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant as determined pursuant to § 1009.62.

§ 1009.87 Termination of obligations. The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation,

(2) The month(s) during which the milk, with respect to which the obligation exists was received or handled, and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative:

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section &c (15) (A) of the act, a petition claiming such money.

DETERMINATION OF BASE

§ 1009.90 Computation of darry average base for each producer. Subject to the rules set forth in § 1009.91, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through December immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of December, inclusive, or by 90, whichever is more.

§ 1009.91 Base rules. The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 1009.90 to each person for whose account producer milk was delivered to pool plants during the months of September through December; and

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be trans-

ferred: Provided, That if a base is held jointly, the entire base shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1009.92 Announcement of established bases. On or before February 15, of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1009.100 Effective time. The provisions of this part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1009.101 Suspension or termination. The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 1009.102 Continuing obligations. If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 1009.103 Liquidation. Upon the suspension or termination of the provisions of this part, except \$\$ 1009.34, 1009.89 and 1009.91 through 1009.93, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1009.110 Agents. The Secretary may by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1009.111 Separability of provisions. If any provisions of this part, or its application to any person or circumstances,

is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 15th day of July, 1955.

[SEAL] F R. BURKE,

Acting Deputy Administrator

[F. R. Doc. 55-5855; Filed, July 19, 1955;

8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

I 47 CFR Parts 2, 3 1

[Docket No. 11405; FCC 55-7761

CLASS B FM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of July 1955;

The Commission having under consideration a proposal to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations; and

It appearing, That Notice of Proposed Rule Making (FCC 55-639) setting forth the above amendment was issued by the Commission on June 3, 1955 and was duly published in the FEDERAL REGISTER (20 F R. 3961) which notice provided that interested parties might file statements or briefs with respect to the said amendment on or before July 1, 1955; and

It further appearing, That no comments were received either favoring or opposing the proposed reallocation;

It further appearing, That the immediate adoption of the proposed reallocation would facilitate consideration of an application to be filed for a new Class B FM broadcast station for operation on Channel No. 234 in Dover, Delaware;

It further appearing, That authority for the adoption of the proposed amendment is contained in Sections 4 (i) 301, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended:

It is ordered, That effective immediately, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is amended as follows in respect to the cities of Dover, Delaware, Baltimore, Maryland, and Reading, Pennsylvania:

General Area	Channels	
	Delete	bbA.
Dover, Del	234 233	234

Released: July 15, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WM. P MASSING,
Acting Secretary.

[F. R. Doc. 55-5873; Filed, July 19, 1955; 8:50 a.m.]

[47 CFR Part 3]

[Docket No. 11460; FCC 55-780]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

1. Notice is hereby given that the Commission has received a request by Star Broadcasting Company, Inc., filed on June 14, 1955, for rule making to amend the Table of Television Channel Assignments contained in Section 3.606 in the Commission's Rules and Regulations by shifting the assignment of Channel 3 from Pueblo, Colorado, to Alamosa, Colorado.

2. Five channels are currently assigned to Pueblo—VHF Channels 3, 5, and 8, with Channel 8 reserved for noncommercial educational use, and UHF Channels 28 and 34, Alamosa, a city 88 miles to the southwest of Pueblo, is assigned UHF Channel 19. In the alternative, it is suggested that intermixture of UHF and VHF channels in Alamosa can be avoided by deleting Channel 19. It is further suggested that another UHF channel can be assigned to Pueblo

to replace Channel 3. 3. In support of its request, Star Broadcasting Company, Inc., points out that there has been no application filed for Channel 3 in Pueblo and that no existing station would be affected by the suggested action, and that no further changes in the Table of Assignments would be required. As to the need for a VHF channel in Alamosa, it is submitted that the city had a population in 1950 of 5,334, that the population of Alamosa County was 10,531, and that the population within a 50 mile radius was 50,452, equivalent to a density of 6.4 persons per square mile. Alamosa is the county seat, and no other city within 50 miles had a 1950 census population of greater than 5,000. The city is completely isolated from any existing television service: the nearest UHF station is 468 miles distant, while the nearest VHF stations are in Pueblo 88 miles distant and Montrose, Colorado, 130 miles. With 2000 foot height and maximum powers, these stations could not deliver Grade B service to Alamosa, particularly in view of rugged intervening terrain. Similar situations exist with respect to other outside VHF stations. As to .Pueblo, there are two stations rendering city-grade service one directly in Pueblo. the other in Colorado Springs, and another existing VHF station operating in the latter city could place a city-grade service in Pueblo if it used greater height and power. It is urged that there appears to be no liklihood in the foreseeable future that Channel 3 will be used in Pueblo. As to Alamosa, petitioner submits that since the surrounding terrain is mountainous, VHF operation is necessary to give maximum results in coverage rather than the UHF Channel already assigned. The peti-tioner states that in the event the proposed assignment is made it will apply for a station.

4. The Commission is of the view that the public interest would be served by instituting a rule-making proceeding to consider the matter of shifting Channel 3 from Pueblo to Alamosa, in order that all interested parties may have the opportunity of presenting their views to the Commission before final action is taken.

- 5. Authority for the adoption of the proposed amendment is contained in sections 4 (i) 303, 303 (c) (d) (f) and (r) and 307 (b) of the Communications Act of 1934, as amended.
- 6. Any interested party who is of the opinion that the amendment proposed by the petitioner should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before August 19, 1955, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original com-ments may be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.
- 7. In accordance with the provisions of Section 1.764 of the Commission's Rules and Regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 13, 1955. Released: July 15, 1955.

Federal Communications
Commission.

[SEAL] WM. P. MASSING,

Acting Secretary.

[F. R. Doc. 55-5874; Filed, July 19, 1955; 8:50 a. m.]

I 47 CFR Part 71

[Docket No. 11452; FCC 55-773]

STATIONS ON LAND IN MARITIME SERVICES PUBLIC COAST STATION FACILITIES FOR TRANSMISSION AND RECEPTION ON 2182

- 1. Notice is hereby given of proposed rule making in the above-entitled matter.
- 2. Sections 7.104 (b) (1) and 7.189 (c) (1) of the Commission's Rules respectively require that "each [2 Mc public radiotelephone] coast station * * be capable of transmitting and receiving" on 2182 kc and that such stations "maintain an efficient watch" on 2182 kc. A question has been raised as to the extent to which a public coast station should be required to afford coverage on the frequency 2182 kc which parallels the coverage the station elects to afford on its working frequencies. Thus, when a station has receivers or transmitters, or both, installed at remote locations and regularly used for operation on the working frequencies only, should such a

station be required also to provide at each such location corresponding 2182 kc receiving or transmitting facilities. It appears that substantially duplicate coverage on 2182 kc should be required if the 2182 kc calling and working system which is provided under the Commission's rules, and internationally, is to be effectuated and encouraged.

3. This proposal is issued under the authority of Article 34 of the International Radio Regulations (Atlantic City, 1947), Article 5 of the Great Lakes Agreement, sections 303 (a) (b), (d), (g) and (r) and 321 of the Communications Act of 1934, as amended.

4. Any interested person who is of the opinion that the proposed amendment should not be adopted or should not be adopted in the form set forth herein, may file with the Commission on or before August 30, 1955, written data, views or briefs setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments in reply to the original comments may be filed within ten days from the last day for filing said original data, views or briefs. The Commission will consider all such comments prior to taking final action in this matter.

5. In accordance with the provisions of Section 1.764 of the Commission's Rules, an original and fourteen copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: July 13, 1955. Released: July 15, 1955.

Federal Communications Commission, WM. P. Massing.

[SEAL] WM. P. MASSING.
Acting Secretary.

[F. R. Doc. 55-5875; Filed, July 19, 1955; 8:50 a. m.]

I 47 CFR Parts 7, 8 1

[Docket No. 11451; FCC 55-772]

STATIONS ON LAND AND SHIPBOARD IN MARITIME SERVICES

AVAILABILITY OF FREQUENCY PAIR 2558 KC (COAST) AND 2166 KC (SHIP) IN VICINITY OF BALTIMORE, MD.

- 1. Notice is hereby given of proposed rule making in the above-entitled matter.
- 2. An application has been received from the Diamond State Telephone Company looking toward establishment of a coast station facility at Bodkin Point, in the vicinity of Baltimore, Maryland.
- 3. In order to provide frequencies for the proposed installation, the Diamond State Telephone Company has requested that the Commission's Rules be amended to make the frequency pair 2558 kc (coast) and 2166 kc (ship) available at Baltimore or in the vicinity thereof. Under present rules this pair is presently available and in use at or in the vicinity of Wilmington, Delaware, and New York, New York. Some service is now provided in the Baltimore and upper Chesapeake Bay areas by the exist-

ing Wilmington installation which is also licensed to the Diamond State Telephone Company. If made available as requested, existing sharing of the frequency pair will probably increase but there should be an improvement in the technical quality of the ship-shore service in the vicinity of Baltimore, as well as an extension of ship-shore public correspondence service in the lower Chesapeake Bay area.

4. The proposed amendments are issued under the authority contained in section 303 (c), (d) (f) and (r) of the Communications Act of 1934, as amended.

- 5. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, may file with the Commission on or hafore August 16, 1955, written data, views or briefs setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments in reply to the original comments may be filed within ten days from the last day for filing said original data, views or briefs. The Commission will consider all such comments prior to taking final action in this matter.
- 6. In accordance with the provisions of Section 1.764 of the Commission's Rules, an original and fourteen copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: July 13, 1955.

Released: July 15, 1955.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WM. P. MASSING.

Acting Secretary.

[F. R. Doc. 55-5876; Filed, July 19, 1955; 8:50 a. m.]

[47 CFR Part 91

[Docket No. 11453; FCC 55-774]

AVIATION SERVICES

OPERATION OF RADIONAVIGATION STATIONS
IN CERTAIN ALLOCATED PREQUENCY BANDS

- 1. Notice is hereby given of proposed rule making in the above entitled matter.
- 2. It is proposed to amend sections 9.312 and 9.511 of Part 9 of the Commission's Rules Governing Aviation Services, as set forth below, to provide for the operation of radionavigation stations in certain frequency bands allocated to the radionavigation service.
- 3. The proposed amendment provides for:
- (a) the operation of aircraft radio altimeters;
- (b) the operation of radionavigation stations aboard afteraft for aeronautical radionavigation including azimuth, distance, voice communication, radar and related functions; and
- (c) the operation of Airborne Radar aboard aircraft.
- 4. The authority for the proposed amendment is contained in sections 4 (i) 303 (c) (f) and (r) of the Communications Act of 1934, as amended.

5. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein. may file with the Commission on or before September 1, 1955, written data, views or arguments setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments in reply to the original comments may be filed within 10 days from the last day for filing said original data, views or arguments. No additional comments may be filed unless (1) specifically requested by the Commission, or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

6. In accordance with the provisions of Section 1.764 of the Commission's Rules and Regulations, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: July 13, 1955. Released: July 15, 1955.

FEDERAL COMMUNICATIONS

[SEAL]

COMMISSION, WM. P MASSING,

Acting Secretary.

Proposed amendments to Part 9, Rules Governing Aviation Services:

1. Change the title of the subpart entitled, "Aircraft Radio Stations," to read, "Aircraft Radio Stations and Radio-navigation Stations Aboard Aircraft."

2. Paragraphs (1) (m) and (n) are added to § 9.312 to read as follows:

(1) 420-460 Mc: Frequency band available for aircraft radio altimeter functions. The aeronautical radionavigation service will not be permitted to use the band 420–460 Mc after February 15,

(m)

960-1215 Mc. 1300-1660 Mc. The band 960-1215 Mc is for distance measuring and other functions related to those performed in the band 1365-1660 Mc. The band 1300-1660 Mc is intended for an integrated system of electronic aids to air navigation and traffic control.

(n)

5250-5440 Mc. 9000-9300 Mc.

9300-9320 Mc.

9320-9500 Mc.

These frequency bands are available for airborne radar functions.

3. Paragraph (f) is added to § 9.511 to read as follows:

960-1215 Mc. 1300-1660 Mc.

The band 960-1215 Mc is for distance measuring and other functions related to those performed in the band 1365-1660 Mc. The band 1300-1660 Mc is intended for an integrated system of electronic aids to air navigation and traffic control. [F. R. Doc. 55-5877; Filed, July 19, 1955; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Foreign Assets Control

IMPORTATION OF HUMAN HAIR (RAW) DIRECTLY FROM KOREA

AVAILABLE CERTIFICATIONS BY THE GOVERNMENT OF KOREA

Notice is hereby given that certificates of origin issued by the Department of Commerce and Industry of the Government of Korea under procedures agreed upon between that government and the Foreign Assets Control are now available with respect to the importation into the United States directly, or on a through bill of lading, from Korea of the following additional commodity.

Hair, human, raw.

[SEAL]

۶.

ELTING ARNOLD. Acting Director Foreign Assets Control.

[F. R. Doc. 55-5942; Filed, July 19, 1955; 11:17 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11271; FCC 55M-621]

RADIO TIFTON

ORDER SCHEDULING HEARING ON CONSTRUCTION PERMIT

In the matter of Charlie H. Parrish. Jr., & Charlie H. Parrish, Sr., d/b as Radio Tifton, Tifton, Georgia, Docket No. 11271, File No. BP-9415; for construction

It is ordered, That H. Gifford Irion is assigned to preside at the hearing in the above-entitled matter, scheduled for Washington, D. C.

Dated: July 8, 1955.

FEDERAL COMMUNICATIONS COMMISSION. MARY JANE MORRIS.

ESEAT. 7

Secretary.

[F. R. Doc. 55-5878; Filed, July 19, 1955; 8:51 a. m.l

- [Docket No. 11384; FCC 55M-619]

WGNS, Inc.

ORDER CONTINUING HEARING ON LICENSE REVOCATION

In the matter of WGNS, Incorporated, Murfreesboro, Tennessee, Docket No. 11384, Order to Show Cause Why the License of AM Radio Station WGNS should not be revoked.

The Hearing Examiner having under consideration a petition filed on July 6, 1955, on behalf of WGNS, Incorporated, requesting that the hearing in the aboveentitled proceeding, now scheduled to be held on July 13, 1955, be postponed until September 27, 1955, and

It appearing, that sufficient "good cause" has been set forth in the said petition to justify a grant of the relief requested herein; and

It further appearing, that the Broadcast Bureau of this Commission, the only other party to the proceeding, has consented to a grant of the said petition and to a waiver of section 1.745 of the Commission's rules relating to the timely filing of motions:

It is ordered, This 6th day of July 1955, that the said petition be, and it is hereby,

10:00 a. m., Tuesday, July 26, 1955, at granted; and that the hearing in the above-entitled proceeding is hereby continued until 10:00 o'clock a. m., Tuesday, September 27, 1955, in the offices of this Commission, Washington, D. C.

> FEDERAL COMMUNICATIONS COMMISSION.

[SEAT.]

MARY JANE MORRIS. Secretary.

[F. R. Doc. 55-5879; Filed, July 19, 1955; 8:51 a. m.]

[Docket No. 11388; FCC 55M-641]

HERB'S TAXI

ORDER CONTINUING HEARING ON LICENSE REVOCATION

In the matter of Herbert W Farrar, d/b as Herb's Taxi, Gardner, Massachusetts, Docket No. 11388; order to show cause why the license for Taxicab Radio Station KCC 420 should not be revoked.

The Hearing Examiner having under consideration a motion, filed June 20, 1955, by the Safety and Special Radio Services Bureau of the Commission, requesting the Commission to issue an order revoking the license involved in this proceeding for reasons specified in the motion; and

It appearing, That if the motion is granted a hearing will be unnecessary; and

It further appearing, That the motion has not yet been acted on by the Commission and is unlikely to be acted on before the scheduled date of the hearing which is July 18, 1955;

It is ordered, This 14th day of July 1955, on the Hearing Examiner's own motion that the hearing herein, now scheduled for July 18, 1955, is continued to a date to be scheduled by the Hearing Examiner in a later order.

FEDERAL COMMUNICATIONS COMMISSION, MARY JANE MORRIS,

Secretary.

[SEAL]

[F. R. Doc. 55-5880; Filed, July 19, 1955; 8:51 a. m.]

[Docket No. 11441; FCC 55M-620] PRESS WIRELESS, INC.

ORDER SCHEDULING HEARING

In the matter of Press Wireless, Inc., Docket No. 11441, Revision of Tariff F. C. C. No. 26.

It is ordered, That William G. Butts is assigned to preside at the hearing in the above-entitled matter, scheduled for 10:00 a. m., Friday, July 29, 1955, at Washington, D. C.

Dated: July 8, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL]

Mary Jane Morris, Secretary.

[F. R. Doc. 55-5881; Filed July 19, 1955; 8:51 a. m.]

> [Docket No. 11441; FCC 55M-638] Press Wireless, Inc.

SCHEDULING PREHEARING CONFERENCE ORDER

In the matter of Press Wireless, Inc., Docket No. 11441, Revision of Tariff F C. C. No. 26.

It is ordered, This 13th day of July 1955, that a prehearing conference be held in this proceeding at 10:00 a.m., Thursday, July 21, 1955, at Washington, D. C., to consider the matters specified in Section 1.813 of the Commission's Rules and all parties are directed to attend.

Federal Communications Commission, Mary Jane Morris,

[seal] Mary Jane Morris, Secretary.

[F. R. Doc. 55-5882; Filed, July 19, 1955; 8:51 a. m.]

> [Docket No. 11461; FCC 55-781] VALR, INC.

> > ORDER TO SHOW CAUSE

In the matter of VALR, INCORPORATED, Licensee of Station KSDA, Redding, California, Docket No. 11461, Order to Show Cause Why the License for Standard Broadcast Station KSDA Should Not Be Revoked.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of July 1955:

The Commission having under consideration information that VALR, Incorporated, licensee of Station KSDA at Redding, California, has not complied

with the requirements of Section 1.343 of the Commission's Rules in regard to the filing of Ownership Reports and/or supplemental Ownership Reports (FCC Form 323) by licensees or permittees within 30 days after grant of an original construction permit, license or after any change occurs in the information required in the Ownership Report, etc.,

It appearing, That, VALR, Incorporated, was granted a Construction Permit for a new standard broadcast station at Redding, California, on February 17,

1954.

It further appearing, That, notice concerning the requirements and calling attention to violations of the said Rule 1.343 were given the permittee and/or licensee by the Commission as follows:

(a) On February 23, 1954, a form letter informed the permittee of the requirements of Rule 1.343, among others, and transmitted copies of such rules as well as copies of the Ownership Report form (FCC Form 323) calling for full report of all information covered by the rule; and

(b) On March 26, 1954 (more than 30 days subsequent to the February 17, 1954, date of the grant of the Construction Permit) another letter was sent calling attention to the permittee's failure to comply with the Rule and requesting execution and return of one copy of an executed Form 323 within 20 days from the receipt of such letter and

(c) On June 11, 1954, another letter was sent the permittee by Registered Mail—Return Receipt Requested stating that unless the requested report was filed in the offices of the Commission within 20 days after receipt of such letter, the matter would be referred to the full Commission for formal action; and

(d) The return receipt of the Commission's letter of June 11, 1954, was signed by the President of the permittee, Mr. Rowland H. Dow, on June 15, 1954; and

(e) An executed copy of the Ownership Report Form 323 dated June 28, 1954, was filed with the Commission on June 30, 1954, which technical compliance of filing within the allowed 20 day period released the permit and related documents of the permittee for further processing and for issuance of a license to cover said permit on September 14, 1954; and

(f) Upon an examination of the said Ownership Report, the licensee's Articles of Incorporation, the capitalization data contained in its original applications for a construction permit and for a license, certain inconsistencies or discrepancies were noted which needed and still need clarification; and

(g) The licensee was notified by letter dated November 24, 1954, of the necessity of its filing a corrected FCC Form 323, blank copies of which were transmitted with that letter; and

(h) No response thereto having been received by the Commission, additional letter requests for such clarifying information were made January 28, 1955, the March 10, 1955, and April 19, 1955, the last of which was transmitted by registered mail and provided that unless the information requested was received by

the Commission within 20 days from April 19, 1955, the matter would be referred to the full Commission for formal action; and

(i) The licensee has failed to submit the information requested above and has also failed to file an additional Ownership Report (FCC Form 323) due 30 days after the grant, on September 14, 1954, of the license to reflect changes in capitalization subsequent to the date of the first Ownership Report;

It further appearing, That, said licensee has therefore wilfully and deliberately failed to comply with Commission Rule 1.343:

It is ordered, Pursuant to the provisions of Section 312 (a) and (c) of the Communications Act of 1934, as amended, that the said licensee, VALR, Incorporated, Redding, Califorma, show cause why the aforementioned license should not be revoked and appear and give evidence in respect thereto at a hearing 1 to be held before this Commission at Washington, D. C., on the 6th day of September 1955:

It is further ordered, That the Secretary send a copy of this Order by Registered Mail—Return Receipt Requested to the said VALR, Incorporated,

Redding, California.

Released: July 15, 1955.

FIDERAL COMMUNICATIONS
COMMISSION,
WM. P MASSING,

[SEAL] WM. P MASSING,
Acting Secretary.

[F. R. Doc. 55-5893; Filed, July 19, 1955; 8:52 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management [No.1 (A-2)]

NEVADA

NOTICE OF CLOSING OF NEVADA LAND OFFICE

JULY 13, 1955.

Notice is hereby given that the Nevada Land Office of the Bureau of Land Management will be closed to the public and no applications under the public land laws, including those affecting the disposal of minerals, will be received in that office on July 25 and 26, 1955.

Section 1.402 of the Commission's rules provides that in order to have the opportunity to appear before the Commission at the time and place specified in the order to show cause, the licensee shall within thirty (30) days from the date of the receipt of this order submit a written statement informing the Commission whether said licensee will appear at this hearing and present evidence upon the matter specified, or whether the rights to such a hearing are waived. Waiver of the hearing may be accompanied by a statement cetting forth the reasons why the licencee believes that an order of revocation should not be issued. A waiver unaccompanied by such a statement will be deemed an admicaion of the allegations specified in the order to show cause. Failure to respond to this order within the above-mentioned thirty (39) day period or failure to appear at the hearing will be deemed a waiver of the right to a hearing and an admission of the allegations specified in the order to show

This office will open to the public on July 27, 1955, 9:30 a.m., at its new location, 50 Ryland Street, Reno, Nevada. All applications received by mail on July 25 and 26 will be considered as filed simultaneously at 9:30 a.m., July 27, 1955. The post office box number remains the same-No. 1551.

> NEAL D. NELSON, Area Administrator. Area II.

[F. R. Doc. 55-5859; Filed, July 19, 1955; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2401, etc.]

DIXIE PIPE LINE CO. ET AL.

ORDER FIXING DATE FOR ORAL ARGIMENT

In the matters of Dixie Pipe Line Company, Docket No. G-2401, Southeastern Drilling Company, Docket Nos. G-2693, G-6807 The Gwin Company, Docket No. G-2694; Laurel Royalty Company, Docket Nos. G-2695, G-6807 I. P LaRue et al., Docket Nos. G-2696, G-6807 C. M. Dorchester, Docket Nos. G-2697, G-6807. F D. Harrell and B. D. Mortimer, Docket Nos. G-2698, G-6807; J. K. Wright, Docket Nos. G-2699, G-6807; A. M. Crowell, Docket Nos. G-2700, G-6807; J. K. Wright, Jr., Docket Nos. G-2701, G-6807 G. G. Green, Docket Nos. G-2702, G-6807 D. Whitaker et al., Docket Nos. G-2703, G-6807; P G. Lake, Docket Nos. G-2704, G-6807; C. R. Ridgway et al., Docket Nos. G-2705, G-6807; Durbin Bond and Company, Inc., Docket Nos. G-2706, G-6807 D. Whitaker, Docket Nos. G-2707, G-6807 C. L. Morgan, Docket Nos. G-2708, G-6807; I. P La-Rue and G. G. Stanford, Docket Nos. G-2709, G-6807; Robert Hynson, Docket Nos. G-2710, G-6807; Carter Foundation Production Co., Docket Nos. G-2711, G-6807; Greif Raible, Docket Nos. G-2768, G-6807 Humble Oil & Refining Company, Docket No. G-3105.

The Commission orders:

(A) The decision of the Presiding Exammer issued June 13, 1955 in the abovedesignated matters and any Exceptions thereto which may be filed on or before the extended date for filing same, namely, July 20, 1955, are set for oral argument before the Commission on July 26, 1955, at 10:00 a. m. (e. d. s. t.) in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

(B) Each party to the proceeding desiring to participate in the oral argument shall notify the Secretary of the Commission on or before July 19, 1955, of such intention and of the amount of time requested for presentation of its argument.

Adopted: July 8, 1955. Issued: July 13, 1955.

By the Commission.

[SEAL] LEON M. FUQUAY, Secretary.

IF. R. Doc. 55-5869; Filed, July 19, 1955; 8:49 a. m.]

[Project No. 2188] MONTANA POWER CO.

NOTICE OF APPLICATION FOR LICENSE

JULY 13, 1955.

Public notice is hereby given that The Montana Power Company, of Butte, Montana, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for license for proposed waterpower Project No. 2188, to be located on the Missouri and Madison Rivers in Cascade, Gallatin, Lewis and Clark, and Madison Counties, Montana, and to consist of nine developments: (1) The proposed Cochrane development, to consist of a concrete gravity dam with a gated spillway section to be located between the existing Ryan and Rainbow developments; a reservoir with water surface at elevation 3,120 feet; two penstocks: a semi-outdoor type powerhouse integral with the dam containing two 42,000horsepower turbines, each connected to a 25,000-kilowatt generator; a substation; a 2.5-mile 115-ky transmission line to Rambow Switchyard; and appurtenant electrical and mechanical facilities: (2) the constructed Morony development consisting of a concrete gravity dam; a gated spillway. a reservoir with water surface at elevation 2,887 feet; steel penstocks; and a powerhouse built integral with the dam containing two 31,000horsepower turbines, each connected to a 25,000-kva generator; and appurtenant facilities; (3) the constructed Ryan development consisting of a concrete gravity arch dam and spillway surmounted with steel flashboards; a reservoir with water surface at elevation 3,037 feet: six steel penstocks; a powerhouse located immediately below the dam containing six 15,000-horsepower turbines each connected to a 10,000-kva generator; and appurtenant facilities; (4) the constructed Rainbow development consisting of a rock-filled timber-crib dam equipped with timber flashboards; six waste gates; a reservoir; two steel conduits extending to a regulating reservoir 12 steel penstocks to supply the original six units; a wood stave pipe line to a surge tank; a 14-foot steel penstock projecting from the surge tank with four steel penstocks branching off to supply the additional two units; a separate powerhouse containing six 6,000-horsepower turbines each connected to a 4.000kilowatt generator and two 8,000-horsepower turbines each connected to a 5,500kilowatt generator; and appurtenant facilities; (5) the constructed Black Eagle development consisting of a concrete gravity dam with a spillway section surmounted with flashboards; a reservoir with water surface at elevation 3.290 feet; a headrace; steel penstocks; a powerhouse at the end of the headrace containing three 9,300-horsepower turbines each connected to a 7,000-kva generator; and apurtenant facilities: (6) the constructed Holter development consisting of a concrete gravity dam with a gated spillway section and another spillway section with semi-permanent flashboards; a reservoir with water surface at elevation 3,564 feet; four steel penstocks; a powerhouse integral with the

dam containing four 16.500-horsepower turbines each connected to a 12,000-kva generator; and appurtenant facilities; (7) the constructed Hauser development consisting of a concrete gravity dam with a spillway section surmounted with flashboards; a reservoir with water surface elevation at 3,635 feet; a short canal and forebay. a separate powerhouse containing five 4,000-horsepower turbines each connected to a 2,800-kilowatt generator and one 5.500-horsepower turbine connected to a 3,000-kilowatt generator; and appurtenant facilities; (8) the constructed Madison development consisting of a rock-filled timber-crib overflow dam; a reservoir; a wood-stave conduit leading to a forebay; a powerhouse containing four 3,600-horsepower turbines each connected to a 2,250-kilowatt generator; and appurtenant facilities; and (9) the constructed Hebgen development consisting of an earth and rockfill dam impounding a reservoir with storage of 345,000 acre-feet and two small generating units for station lighting and service; and appurtenant facilities. In addition, certain transmission facilities are described in the application as parts of the project. Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10), the time within which such petitions must be filed being specified in the rules. The last date upon which protests may be filed is August 26, 1955. The application is on file with the Commission for public inspection.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 55-5868; Filed, July 19, 1956; 8:48 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

MANAGEMENT OFFICER

DELEGATIONS OF FINAL AUTHORITY

Section II Delegations of final authority, is amended as follows:

Paragraph G 10 is amended by adding the following official to the list of officials designated therein:

Joshua W. Byrd, Management Officer.

Date approved: July 11, 1955.

[SEAL]

CHARLES E. SLUSSER. Commissioner

[F. R. Doc. 55-5860; Filed, July 19, 1955; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 691

MOTOR CARRIER APPLICATIONS

JULY 15, 1955.

Protests, consisting of an original and two copies, to the granting of an application must be filed with the Commission within 30 days from the date of publication of this notice in the Federal Rec-ISTER and a copy of such protest served on the applicant. Each protest must clearly state the name and street number, city and state address of each protestant on behalf of whom the protest if filed (49 CFR 1.240 and 1.241) Failure to seasonably file a protest will be construed as a waiver or opposition and participation in the proceeding unless an oral hearing is held. In addition to other requirements of Rule 40 of the General Rules of Practice of the Commission (49 CFR 1.40) protests shall include a request for a public hearing, if one is desired, and shall specify with particu-larity the facts, matters, and things, relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected. Requests for an oral hearing must be supported by an explanation as to why the evidence cannot be submitted in forms of affidavits. Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, pre-hearing conference, taking of depositions, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Except when circumstances require immediate action, an application for approval, under Section 210a (b) of the Act, of the temporary operation of motor carrier properties sought to be acquired in an application under Section 5 (a) will not be disposed of sooner than 10 days from the date of publication of this notice in the Federal Register. If a protest is received prior to action being taken, it will be considered.

APPLICATIONS OF MOTOR CARRIERS OF PROPERTY

No. MC 263 Sub 78, filed July 11, 1955, GARRETT FREIGHTLINES, INC., 2055 Pole Line Road, P. O. Box 349, Pocatello, Idaho. Applicant's attorney Maurice H. Greene, P. O. Box 1554, Boise. Idaho. For authority to operate as a common carrier over regular routes, transporting: Salt, in bulk, from Saltair, Utah, to Shiprock, N. Mex., from Saltair over unnumbered Utah highway to junction U.S. Highway 40, thence over U.S. Highway 40 to junction with U.S. Highway 91, thence over U.S. Highway 91 to junction U.S. Highway 50 near Springfield, Utah, thence over U. S. Highway 50 to junction with U.S. Highway 160 at Crescent Junction, Utah, thence over U.S. Highway 160 to junction U.S. Highway 666 at Cortez, Colo., thence over U.S. Highway 666 to Shiprock, N. Mex.

No. MC 1375 Sub 6, filed June 29, 1955, BELL LINES, INC., 6414 McCorkle Ave., S. E., Charleston, W Va. Applicant's attorney Francis W McInerny, Commonwealth Bldg., 1625 K St., N. W., Washington 6, D. C. For authority to operate as a common carrier over irregular routes, transporting: Metallic mercury, from Point Pleasant, W Va. to Oak Ridge, Tenn., empty containers or other such incidental facilities (not specified) used in transporting the commodity specified in this application on return. Applicant is authorized to conduct oper-

ations in Indiana, Ohio, Pennsylvania, Virginia, West Virginia, and North Carolina.

No. MC 6945 Sub 24, filed July 5, 1955. THE NATIONAL TRANSIT CORPORA-TION, 1687 West Fort Street, Detroit 16, Mich. Applicant's attorney Thomas I. Wattles, Dime Building, Detroit 26, Mich. For authority to operate as a common carrier transporting: General commodities, except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving the site of the Ford Motor Company, Chassis Parts Division, Sterling Plant, located at the northeast intersection of Mound Road and Seventeen Mile Road, in Sterling Township, Macomb County, Mich., as an off-route point in connection with carrier's regular route operations between (a) Bay City, Mich., and Covington, Ky., over U.S. Highways 10, 24 and (b) Detroit, Mich., and the Ford Willow Run Plant located approximately four miles east of Ypsilanti, Mich., over Michigan Highway 17, (c) Detroit, Mich., and junction Michigan Highway 112 and U.S. Highway 112 By-Pass over Michigan Highway 112, and (d) Detroit, Mich., and the site of the Chrysler Corporation Tank Arsenal located near Datroit over Mich-1gan Highway 53. Applicant is authorized to conduct operations in Indiana, Kentucky, Michigan and Ohio.

No. MC 15214 Sub 25, filed July 5, 1955, MERCURY MOTORWAYS, INC., 947 Louise Street, P. O. Box 689, South Bend 15, Ind. Applicant's attorney Ferdinand Born, 708 Chamber of Commerce Bldg., Indianapolis 4, Ind. For authority to operate as a common carrier, transporting: General commodities, except those of unusual value, Class A and B explosives, commodities in bulk and those requiring special equipment, serving the site of Ford Motor Company Sterling Plant, Sterling Township, Macomb County, Mich., as an off-route point in connection with carrier's rezular-route operations (1) between South Bend, Ind., and Detroit, Mich., and (2) between Detroit, Mich., and Toledo, Ohio. Applicant is authorized to con-duct operations in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

No. MC 22229 Sub 20, filed July 11, 1955, TERMINAL TRANSPORT COM-PANY, INC., 180 Harriatt St., S. E., Atlanta, Ga. Applicant's attorney Reuben G. Crimm, Eight-O-Five Peachtree Street, Building, Atlanta 5, Ga. For authority to operate as a common carrier, transporting: Paper articles, including paper, paper bags, and gummed tape, serving Yulee, Fla., as an off-route point in connection with regular route operations between Jacksonville, Fla., and Perry, Ga. RESTRICTION: The authority applied for is to be restricted against the transportation of shipments destined to or originating at points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island. New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and the District of Columbia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Illinois, Indiana, and Kentucky.

No. MC 29459 Sub 6, filed June 29, 1955, DELLAVALLE TRUCKING COMPANY, INC., 3122 Victory Boulevard, Staten Island, N. Y. For authority to operate as a contract carrier over irregular routes, transporting: Zircon ore (crude zirconium silicate), not further processed than ground, and returned empty containers or other such incidental facilities (not specified) used in transporting the commodities specified, between Carteret, N. J., and New York, N. Y.

No. MC 34564 Sub 19, filed June 29, 1955, ADOLPH J. DAROSKA, 23 Concord Street, Pittsfield, N. H. For authority to operate as a common carrier over irregular routes, transporting: Agricultural machinery and agricultural machinery and agricultural machinery equipment and replacement parts therefor, between Syracuse, N. Y., on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont. Applicant is authorized to conduct operations in Massachusetts and New Hampshire.

No. MC 40256 Sub 2, filed July 7, 1955. LOUIS BOBROFF doing business as MERCHANT'S TRANSFER, 6620 North 7th St., Philadelphia, Pa. Applicant's attorney Leon Weinroth, Suite 2103, Sixteen Sixteen Walnut St., Philadelphia 3, Pa. For authority to operate as a common carrier over irregular routes, transporting: (1) Lamps and smoling stands, lamp shades, glass shades, reflectors, and accessories for smoling stands, between Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, Dalaware, Maryland, Ohio, Virginia, West Virginia and the District of Columbia, and (2) Glassware, between points in Pennsylvania, West Virginia, New York, and New Jersey. Applicant is authorized to conduct operations in Pennsylvania, New York, New Jersey, Delaware, Maryland, Ohio, Virginia, and the District of Columbia.

No. MC 42963 Sub 6, filed June 16, 1955, Daniel Hamm Drayage com-PANY, Second and Tyler Streets, St. Louis 6, Mo. Applicant's attorney Ernest A. Brooks II, 1310 Ambassador Bldg., St. Louis 1, Mo. For authority to operate as a common carrier over irregular routes, transporting: Commodities, the transportation of which, because of size, weight, or shape, require the use of special equipment or special handling or rigging, and related parts, when their transportation is incidental to the transportation of commodities, which, by reason of size, weight, or shave require the use of special equipment, or special handling or rigging, between points in Missouri, Illinois, Arkansas, Indiana, Iowa, Kentucky, Tennessee, and Ohio.

Note: Applicant holds authority for the transportation of commodities, the transportation of which, because of their size or weight, require the use of special equipment between points in the above-mentioned states.

No. MC 44447 Sub 11, filed July 5, 1955, SUBURBAN MOTOR FREIGHT, INC., 1100 King Ave., Columbus, Ohio. Applicant's attorney. Taylor C. Barneson, 3510 LeVeque-Lincoln Tower, Columbus 5214 **NOTICES**

15, Ohio. For authority to operate as a common carrier, transporting: General commodities, except those of unusual value, Class A and Class B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, serving the site of the Sterling plant of the Ford Motor Company located at or near the intersection of Mound Road and Seventeen Mile Road in Sterling Township, Macomb County, Mich., as an offroute points in connection with applicant's authorized regular route operations between Detroit, Mich., and Wheeling and Weirton, W Va. over U. S. Highways 25 and 112. Applicant is authorized to conduct operations in Indiana, Illinois, Michigan, Ohio, and West Virginia.

No. MC 52673 Sub 10, filed July 5, 1955, FRED OLSON & SON MOTOR SERVICE CO., a corporation, 4724 West Walton Street, Chicago 51, Ill. Applicant's representative: Earl Girard, 6739 Beckwith Road, Morton Grove, Ill. For authority to operate as a common carrier over regular routes, transporting: Liquid chocolate and semi-solid chocolate, and chocolate products, in bulk, in tank trucks, from Milwaukee, Wis., to Chicago, Ill., (1) from Milwaukee over U. S. Highway 41 to Chicago, (2) from Milwaukee over U.S. Highway 41 to junction Illinois Highway 42-A, thence over Illinois Highway 42-A to Chicago, and (3) from Milwaukee over U.S. Highway 41, including Eden's Expressway, to Chicago, serving the off-route points of Zion, Waukegan and North Chicago, Ill., on the above-specified routes. Applicant is authorized to conduct operations ın Illinois, Indiana and Wisconsın.

No. MC 59266 Sub 2, filed June 22, 1955, JOHN H. YOURGA, doing business as JOHN H. YOURGA TRUCKING, 56 Phillips Way, Sharon, Pa. Applicant's attorney Rhoads, Sinon & Reader, State Street Building, Harrisburg, Pa. For authority to operate as a common carrier over irregular routes, transporting: Iron articles and steel articles, from points in Mercer County, Pa., to points in Delaware, and damaged shipments on

No. MC 70136 Sub 5, filed June 10, 1955, B. E. SOBOLEWSKI and E. A. SOBO-LEWSKI, doing business as CITY TRANSFER CO., 212 South Court Street, Steubenville, Ohio. Applicant's attorney Daniel H. Armstrong, 16 East Broad Street, Columbus, Ohio. For authority to operate as a contract carrier over irregular routes, transporting: Paper and paper articles, waste paper, loose and in bales, and such machinery. articles and supplies as are used in the manufacture of paper and paper articles, from Steubenville, Ohio, to points in Michigan, and empty containers or other such incidental facilities, (not specified) used in transporting the commodities specified, on return. Applicant is authorized to conduct operations in Ohio. Pennsylvania and West Virginia.

No. MC 75651 Sub 39, filed April 26, 1955, amended May 25, 1955, published in the June 2, 1955 issue, page 3857, re-, 1955, MORGAN DRIVE-AWAY, INC., published in the June 8, 1955 issue, page , 509 Equity Building, Elkhart, Ind. Ap-

MOTOR LINES, INC., 2500 Laura Street, Jacksonville, Fla. For authority to operate as a common carrier over irregular routes, transporting: Paper and paperboard products, from Yulee, Fla., and points within two miles thereof, to Augusta, Ga., and points in South Carolina (except Clover, S. C., and points within 35 miles of Clover) RESTRIC-TION: The carrier may not combine the above-described authority with any other regular or irregular authority which it presently holds. Applicant is authorized to conduct regular route operations in Delaware, Florida, Georgia, Maryland, New-Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia and the District of Columbia, and irregular route operations in North Carolina and South Carolina.

No. MC 77404 Sub 5, filed July 5, 1955, MOHAWK MOTOR, INC., 40 Harrison Street, Tiffin, Ohio. Applicant's attorney Taylor C. Burneson, 3510 LeVeque-Lincoln Tower, Columbus 15, Ohio. For authority to operate as a common cartransporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Sterling Plant of the Ford Motor Company located in Sterling Township, Macomb County, Mich., as an off-route point in connection with carrier's authorized regular-route operations (1) between Detroit, Mich., and Antwerp, Ohio, (2) between Detroit, Mich., and Corunna, Ind., and (3) between Cleveland, Ohio and Detroit, Mich. Carrier is authorized to conduct operations in Indiana, Michigan and Ohio.

No. MC 88393 Sub 1, filed June 24, 1955, WILBERT A. BECKWITH, Vernon Hotel, Kittanning, Pa. Applicant's attorney Jerome Solomon, 1325-27 Grant Bldg., Pittsburgh, Pa. For authority to operate as a contract carrier over irregular routes, transporting: Sewer pipe, brick, tile, and clay products used in building construction, from points in Armstrong County, Pa., to points in Virginia, West Virginia, Maryland, New Jersey, Pennsylvania, Connecticut, Massachusetts, New York, Delaware, Rhode Island, and the District of Columbia, and empty containers or other such incidental facilities (not specified) used in transporting the commodities specified, on return. Applicant is not authoruzed to transport the commodities specified.

No. MC 103880 Sub 150, filed July 7. 1955. PRODUCERS TRANSPORT, INC., 530 Paw Paw Avenue, Benton Harbor, Mich. Applicant's attorney Jack Goodman, 39 South La Salle Street, Chicago 3, Ill. For authority to operate as a common carrier over irregular routes, transporting: Liquefied petroleum gas, in bulk, in tank vehicles, from Toledo, Ohio to points in Michigan, Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Michigan. Missouri, Ohio, and Wisconsin,

No. MC 103993 Sub 54, filed July 1, 3973, amended July 5, 1955, R. C. plicant's attorney: John E. Lesow, 632

Illinois Building, 17 W Market Street, Indianapolis 4, Ind. For authority to operate as a common carrier, over irregular routes, transporting: Trailers, designed to be drawn by passenger automobiles, in initial movements, by truckaway method, from Oklahoma City, Okla., to all points in the United States, and damaged shipments of the commodity specified in this application on return. Applicant is authorized to conduct operations throughout the United States.

No. MC 105489 Sub 6, filed July 5, 1955, AUSTIN MURRAY, Prairie Farm, Wis. Applicant's attorney Claude J. Jasper, One West Main St., Madison 3, Wis. For authority to operate as a common carrier over irregular routes, transporting: Powdered milk, ice cream mix, cottage cheese, butter, milk, and cream, from Menomonie, Clear Lake, and Vesper, Wis., to Minneapolis, and St. Paul, Minn., and empty containers or other such incidental facilities (not specified) used in transporting the above-specified commodities, from Minneapolis, and St. Paul, Minn., to the above-specified origin points. Applicant is authorized to conduct operations in Illinois, Iowa, Minnesota, Nebraska, South Dakota, and Wisconsin.

No. MC 106074 Sub 9 (amended) Published on page 1753 of issue of March 23, 1955. HOWELL BRYSON, BERNARD GOLDSTEIN, and NEMIAH GOLD-STEIN, doing business as B. & P. MOTOR LINES, 101 Main St., Hazelwood, N. C. Applicant's representative: R. F Bohman, Rooms 4-5 Gardner Trust Building, Gardner, Mass. For authority to operate as a common carrier, over irregular routes, transporting: (1) new furniture, (a) from Gardner, Mass., to points in Alabama, Connecticut, Delaware, Florıda, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia, and (b) from Hagerstown, Md., to points in Alabama, Connecticut, Kentucky Massachusetts, Rhode Island, Tennessee, Louisiana, and Mississippi, and (2) returned shipments of new furniture, from above-specified destination points to above-specified origin points. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

No. MC 106914 Sub 8, filed June 29, 1955, HAROLD FINE, doing business as AMERICAN CARTAGE COMPANY, 1575 Fairfield Avenue, Cleveland, Ohio. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. For authority to operate as a common carrier, over irregular routes, transporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Cleveland, Ohio, and the Ford Motor Company plant located at 17-Mile Road and Mound Road, in Sterling

Township, Macomb County, Mich. Applicant is authorized to conduct operations in Michigan, Ohio and Pennsylvania.

No. MC 107002 Sub 79, filed June 20, 1955 (amended) WALTER M. CHAMBERS, doing business as W. M. CHAMBERS TRUCK LINE, 105 Giuffrias Ave., P O. Box 687, New Orleans, La. For authority to operate as a common carrier over irregular routes, transporting: Petrolatum, in bulk, in tank vehicles, from points in Jefferson County, Tex., to Laurel, Miss. Applicant is authorized to conduct operations in Alabama, Arkansas, Georgia, Louisiana, Mississippi, and Tennessee.

No. MC 107515 Sub 184, filed July 5, 1955, REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, S. W., Atlanta, Ga. Applicant's attorney. Allan Watkins, Grant Building, Atlanta, Ga. For authority to operate as a common carrier over irregular routes, transporting: Prepared dough, and prepared bakery products, requiring temperature control, from Bogart, Ga., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arkansas, Florıda, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Virginia.

No. MC 107757 Sub 12, filed July 5, 1955, M. C. SLATER, INC., 1129 Bremen Avenue, St. Louis, Mo. For authority to operate as a common carrier over irregular routes, transporting: Acids and chemicals, and fertilizers and fertilizer compounds, in bulk, in tank vehicles, from points in Jefferson County, Mo., to points in Illinois, and empty containers or other such incidental facilities used in transporting the commodities specified on return. Applicant is authorized to conduct operations in Illinois, Indiana and Missouri.

No. MC 107826 Sub 4, filed June 10, 1955 (Amended) published page 4607 issue of June 29, 1955, WILLIAM R. FOWLER, Delsea Drive, Eldora, N. J. Applicant's attorney William J. Augello, Jr., 99 Hudson Street, New York 13, N. Y. For authority to operate as a common carrier over irregular routes, transporting: Fish solubles, in bulk, in tank vehicles, fish meal, and fish scrap, from Wildwood, N. J., to points in Adams, Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Dauphin, Delaware, Franklin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Northumberland, Phila-delphia, Pike, Schuylkill, Snyder, Union, and York Counties, Pa., Kent, New Castle, and Sussex Counties, Del., and Anne Arundel, Baltimore, Carroll, Cecil, Frederick, Harford, Howard, Montgomery, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Worcester, and Somerset Counties, Md., Muriatic (hydrochloric) acid, in carboys, from Philadelphia, Pa., to Wildwood, N. J.

Note: Applicant states that all duplicating authority is to be excluded. Applicant is

authorized to conduct operations in New Jersey, Delaware, Maryland, and Pennsylvania.

No. MC 109584 Sub 26, filed July 7, 1955, ARIZONA-PACIFIC TANK LINES, a corporation, 717 North 21st Ave., Phoenix, Ariz. Applicant's attorney R. Y. Schureman, 639 South Spring St., Los Angeles 14, Calif. For authority to operate as a common carrier, over irregular routes, transporting: Anhydrous ammonia, in bulk, in tank vehicles, from Orange, Los Angeles and Ventura Counties, Calif., to points in Colorado. Applicant is authorized to conduct operations in California, Arizona, and Utah.

No. MC 109914 Sub 8, filed June 24, 1955, DUNDEE TRUN LINE, INC., 660 Sterling Street, Toledo, Ohio. Applicant's attorney Arthur R. Cline, 420 Security Building, Toledo 4, Ohio. For authority to operate as a common carrier transporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Gibraltar, Mich., as an off-route point in connection with carrier's regular route operations between (1) Ann Arbor, Mich., and Detroit, Mich., over U.S. Highway 112, and (2) Detroit, Mich., and Toledo, Ohio, over U. S. Highways 24 and 25. Applicant is authorized to conduct operations in Indiana, Ohio and Michigan.

No. MC 110190 Sub 27, filed June 30, 1955, PENN-DIXIE LINES, INC., 2000 South George Street, P. O. Box 42, York, Pa. Applicant's attorney Robert R. Hendon, Investment Building, Washington 5, D. C. For authority to operate as a common carrier, over irregular routes, transporting: Canned goods, between points in the Philadelphia, Pa., Commercial Zone as defined by the Commission, and points in that portion of Maryland east of U. S. Highway 15, on the one hand, and, on the other, points in Alabama, Georgia, and Florida. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Maryland, New

Jersey, and Pennsylvania.

No. MC 110436 Sub 13, filed April 20, 1955, and published on page 2009, issue of May 4, 1955, amended May 31, 1955, and further amended June 22, 1955, and still further amended July 6, 1955, ROBERTSON TRANSPORTS, INC., 5700 Polk, Houston, Tex. Applicant's attorney Harry W Patterson, San Jacinto Bldg., Houston 2, Tex. For authority to operate as a common carrier, over irregular routes, transporting: (1) Petroleum lubricating oil, in bulk, in tank vehicles, (a) from Baytown, Tex., to points within a five mile radius of Oil Center, Jal, Eunice, Carlsbad, Gage, Deming, Hobbs Gallup, and Farmington, N. Mex., including each of the named points, and (b) from Port Arthur, Tex., to points within a five mile radius of Jal, Eunice, and Monument, including each of the named points, (2) Coal tar products, in bulk, in tank vehicles, from Daingerfield and Lone Star, Tex., to Jefferson and Ouchita Countles, Ark., (3) Caustic soda, in bulk, in tank vehicles, from Lake Charles, La., to the plant of East Texas Pulp and Paper Company, near Evadale, Tex., and (4) Rosin sizing, from DeRidder and DeQuincy, La., to the plant of the East Texas Pulp and Paper Company, near Evadale, Tex., (5) Silicate of soda, in bulk, in tank vehicles, from Dallas, Tex., to Tulsa, Okla. Applicant does not hold permanent interstate authority from this Commission.

No. MC 111011 Sub 5, filed July 7, 1955, RAYMOND W. BRACY AND RUS-SELL R. BRACY, doing business as R. W. BRACY & SONS, 1408 No. River St., Independence, Mo. Applicant's attorney.

J. Wm. Townsend, 204-206 Central Bldg., Topeka, Kans. For authority to operate as a contract carrier over irregular routes, transporting: Mineral mixture for livestock or poultry feeding, animal and poultry tonics or medicines, animal and poultry feed, insecticides (other than agricultural) dry earth paint and advertising matter, from Quincy, Ill., to points in Riley County, Kans., and damaged shipments of the above-specified commodities on return movement. Applicant is authorized to conduct operations in Illinois and Kansas.

No. MC 111397 Sub 17, filed June 20, 1955, WADE E. DAVIS, doing business as DAVIS TRANSPORT, 2812 Kentucky Avenue, Paducah, Ky. For authority to operate as a common carrier over irregular routes, transporting: Petroleum and petroleum products, in bulk, in tank vehicles, from Henderson, Ky., to points in Indiana and Illinois bounded by a line beginning at New Albany, Ind., and extending along U.S. Highway 150 to the Indiana-Illinois State line, thence along U. S. Highway 50 to East St. Louis, Ill., thence south along the east bank of the Mississippi River to Cairo, Ill., thence along the Ohio River to point of beginning, including all points on the abovedescribed boundary line. Applicant is authorized to conduct operations in Illinois, Kentucky, Missouri and Tennessee.

No. MC 111812 Sub 22, filed July 11, 1955, MIDWEST COAST TRANSPORT, INC., P. O. Box 707, Sioux Falls, S. Dak. For authority to operate as a common carrier over irregular routes, transporting: Frozen foods, between points in Oregon and Washington, on the one hand, and, on the other, Omaha, Nebr. and points in Iowa. Applicant is authorized to conduct operations in Washington, Oregon, California, Iowa, Minnesota, and South Dakota.

No. MC 112474 Sub 23, filed July 1, 1955, WALTER ROWAN, 38 Market Street, Jamestown, N. Y. For authority to operate as a common carrier, over irregular routes, transporting: Such road building and construction materials in bull: as may be transported in dump trucks, from points in Erie, Crawford, Warren, McKean, Potter, Venango, Forest, Elk and Clarion Counties, Pa., to Chautauqua County, N. Y. Applicant is authorized to conduct operations in

Pennsylvania and New York.

Norz: Applicant has on file under Docket No. MC 112474 Sub 1 a request for the transportation of the above-named commodities in the reverse direction.

No. MC 112497 Sub 38, filed July 11, 1955, HEARIN TANK LINES, INC., 6440 Rawlins St., P. O. Box 3096, Baton Rouge

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5, La. For authority to operate as a common carrier over irregular routes, transporting: Molten rosin, in bulk, in tank vehicles, from Covington, La. to Hattiesburg, Miss.

No. MC 112544 Sub 2, filed June 29, 1955, CONLEY'S EXPRESS, INC., 2401 South Homan Avenue, Chicago 23, Ill. Applicant's attorney Ewald E. Kundtz, 2507 Terminal Tower Bldg., Cleveland 13, Ohio. For authority to operate as a contract carrier over irregular routes, transporting: Such commodities (except uncrated furniture) as are dealt in by mail order houses and retail department stores, (a) from Chicago, Ill., to points in Indiana, Michigan, (exclusive of points in the Upper Peninsula) and Ohio, and (b) from points in Indiana, Michigan. (exclusive of points in the Upper Peninsula) and Ohio, and their respective commercial zones, as defined by the Commission, to Chicago, Ill.

Note: Applicant states that to the extent the applied-for authority duplicates present authority in permit No. MC 112544, such authority is not requested. Applicant is authorized to conduct operations in Indiana, Michigan and Ohio.

No. MC 113151 Sub 3, filed June 22, 1955, EDWIN HINDERMAN and ALPHONSE HINDERMAN, doing business as HINDERMAN BROS., Dickeyville, Wis. Applicant's attorney John T. Porter, 707–708 First National Bank Building, Madison 3, Wis. For authority to operate as a common carrier over irregular routes, transporting: Livestock feeds, and poultry feeds, from Davenport, Iowa, to points in Potosi and Fennimore Townships, Grant County, Wis. Applicant is authorized to conduct operations in Iowa and Wisconsin.

No. MC 113681 Sub 5, filed July 11, 1955, BAKERY PRODUCTS DELIVERY, INC., 404 West Putnam Ave., Greenwich, Conn. Applicant's attorney Rubin Kaminsky, 410 Asylum St., Hartford, Conn. For authority to operate as a contract carrier over irregular routes, transporting: Bakery products, except frozen bakery products, from Boston and Cambridge, Mass., to points in Connecticut, and Stale, damaged and non-salable shipments of the above-described commodities and empty containers or other such incidental facilities (not specified) used in transporting the commodities specified in this application, on return. Applicant is authorized to conduct operations in New York, Connecticut, Rhode Island, Massachusetts, New Jersey, Delaware, Maryland, Pennsylvania, and the District of Columbia.

No. MC 114033 Sub 1, filed June 21, 1955, (Amended) BOWEN TRANS-PORTS, INC., 212 N. 15th Street, P.O. Box 504, Mattoon, Ill. Applicant's attorney Nuel D. Belnap, One North Lasalle Street, Chicago 2, Ill. For authority to operate as a contract carrier over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles, from points in Illinois on U. S. Highway 36 between the junction of U. S. Highway 36 and U. S. Highway 45 on the east and junction of U. S. Highway 36 and Illinois Highway 105 on the west to Louisville, Henderson and Owensboro, Ky., St. Louis, Mo. and points in Indiana.

No. MC 115397, filed June 10, 1955. published in the June 29, 1955 issue, on page 4608, amended July 11, 1955, WILLIAM GEORGE MORRISON, Route 2, Box 48, Troutdale, Oreg. Applicant's representative: H. E. Franklin, Jr., 1900 Alaskan Way, Seattle 1, Wash. For authority to operate as a contract carrier over irregular routes, transporting: Agricultural seeds, fertilizers, insecticides, lawn and garden tools, agricultural implements and supplies, livestock and poultry equipment and supplies, pet food and pet supplies, calf meal, and related advertising material (1) between points in Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multno-mah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington and Yamhill Counties, Oreg., (2) between points in Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Franklin, Garfield, Grant, Grays Harbor, King, Kittitas, Klickitat, Lewis, Lincoln, Pacific, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Walla Walla, Whitman and Yakima Counties, Wash., (3) between points in Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Deschutes, Douglas, Gilliam, Curry Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington and Yamhill Counties, Oreg., on the one hand, and, on the other, points in Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Franklin, Garfield, Grant, Grays Harbor, King, Kittitas, Klickitat, Lewis, Lincoln, Pacific, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Walla Walla, Whitman and Yakıma Counties, Wash., (4) between points in Benton, Clackamas, Clatsop, Columbia, Coos, Crooks, Curry, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington and Yamhill Counties, Oreg., and Adams, Asotin, Benton, Chelan, Clark, Columbia, Cowlitz, Franklin, Garfield, Grant, Grays Harbor, King, Kittitas, Klickitat, Lewis, Lincoln, Pacific, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Wahkiakum, Walla Walla, Whitman and Yakıma Counties, Wash., on the one hand, and, on the other, points in Benewah, Bonner, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, Idaho.

No. MC 115401, filed June 13, 1955, J. A. BOSTICK, C. A. BOSTICK AND R. M. BOSTICK, doing business as BOSTICK BROTHERS, Benoit, Miss. For authority to operate as a contract carrier over irregular routes, transporting: Agricultural irrigation systems, consisting of aluminum pipe, pipe fittings, pumps, and equipment necessary to irrigate growing crops, from Muskogee, Okla., to Benoit, Miss.

No. MC 115403, filed June 13, 1955, amended July 12, 1955, published in June 29, 1955 issue, page 4608, SOUTH-

WIND TRUCKING COMPANY, a corporation, 4501. East 10th Avenue, Hialeah, Fla. Applicant's attorney William P Simmons, Jr., First National Bank Bldg., Miami 32, Fla. For authority to operate as a common carrier, over irregular routes, transporting: Lumber, from points in Georgia to points in Dade, Broward, Monroe and Collier Counties, Fla. Applicant is not authorized to transport the commodity specified

No. MC 115425, filed June 23, 1955, RICHARD JOZAITIS, 426 Third Street, Menominee, Mich. Applicant's attorney Michael D. O'Hara, Spies Building, Menominee, Mich. For authority to operate as a contract carrier, over irregular routes, transporting: Malt beverages and returned empty containers, or other such incidental facilities used in transporting the commodities specified, between Minneapolis, Minn., and Milwaukee, Wis., on the one hand, and, on the other Menominee, Mich.

the other, Menominee, Mich.

No. MC 115444, filed July 5, 1955, W G.
RIEDEL, JR., Karnes City, Tex. Applicant's attorney Albert G. Walker, 202
Capital National Bank Building, Austin, Tex. For authority to operate as a contract carrier, over irregular routes, transporting: Beer, in containers, and empty containers or other such incidental facilities (not specified) used in transporting the commodity specified in this application, between New Orleans, La., on the one hand, and, on the other, Kenedy, and Floresville. Tex.

on the one hand, and, on the other, Kenedy, and Floresville, Tex.

No. MC 115447, filed July 5, 1955, HAROLD D. MUNCEY, doing business as MUNCEY TRAILER TOTERS, 126 46th Street, S. W., Albuquerque, N. Mex. Applicant's attorney O. Russell Jones, 54½ E. San Francisco Street, Southwest Corner Plaza, P O. Box 1437, Santa Fe, N. Mexico. For authority to operate as a common carrier, over irregular routes, transporting: House trailers and mobile homes, in towaway service, from points in New Mexico to points in Arizona, California, Colorado, Kansas, Nevada, Oklanoma, Texas, and Utah.

No. MC 115448, filed July 5, 1955, GORDON McLIN, Silver Lake, Kans. Applicant's attorney' John M. Williams, 308 Columbian Building, Topeka, Kans. For authority to operate as a common carrier over regular routes, transporting: (1) Processed feeds, from Kansas City, Mo., over U. S. Highway 24 to Silver Lake, Kans., and (2) livestock, from Silver Lake, Kans., over U. S. Highway 24 to Kansas City, Mo., serving no intermediate or off-route points.

JOHN E. WILLIAMS, doing business as JOHN E. WILLIAMS TRUCKING CO., Box 470, U. S. Highway 78, Holly Springs, Miss. Applicant's attorney Edward G. Grogan, Commerce Title Bidg., Memphis 3, Tenn. For authority to operate as a contract carrier over irregular routes, transporting: Clay building brick, tile, and other clay kiln products, from Byhalia, Miss. to points in the states of Mississippi, Arkansas, and Tennessee within the area bounded on the south

No. MC 115450, filed July 8, 1955,

by U. S. Highway 84 beginning at its junction with the Mississippi River, thence eastward along U. S. Highway

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84 to the Mississippi-Alabama State boundary, thence northward along the Mississippi-Alabama State boundary to its junction with the Tennessee River, thence northward along the Tennessee River to its junction with the Tennessee-Kentucky State boundary, thence westward along the Tennessee-Kentucky State boundary to its junction with the Mississippi River, thence southward along the Mississippi River to its junction with the Missouri-Arkansas State boundary, thence westward along the Missouri-Arkansas State boundary to its junction with the St. Francis River, thence northward along the St. Francis River to its junction with the Missouri-Arkansas State boundary, thence westward along the Missouri-Arkansas State boundary to its junction with U.S. Highway 67, thence southward along U.S. Highway 67 to Little Rock, Ark., thence southward from Little Rock, Ark., along U.S. Highway 65 to its junction with the Arkansas-Louisiana State boundary, thence eastward along the Arkansas-Louisiana State boundary to the Mississippi River, thence southward along the Mississippi River to its junction with U.S. Highway 84 at point of beginning, serving points on the indicated portions of the highways specified.

APPLICATIONS OF MOTOR CARRIERS OF PASSENGERS

No. MC 104165 Sub 4, filed May 25, 1955, FRANK E. BUTTS, doing business as IRON MOUNTAIN-KINGSFORD TRANSIT LINES, 715 River Avenue, Iron Mountain, Mich. For authority to operate as a common carrier over irregular routes, transporting: Passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Dickinson County, Mich., and extending to Chicago, Ill., and Duluth and St. Paul, Minn.

No. MC 115306, filed April 11, 1955, HAROLD E. COLEMAN, doing business as COLEMAN SERVICE, Rural Route, Chester, Ill. Applicant's attorney Harold M. Olsen, 402 First National Bank Building, Springfield, Ill. For authority to operate as a common carrier over irregular routes, transporting: Passengers and their baggage, in the same vehicle with passengers, in round trip, in special and charter operations, beginning and ending at points in Randolph County, Ill., and extending to points in Missouri.

No. MC 115432, filed June 27, 1955, PAWTUXET VALLEY BUS LINES, a corporation, 20 Carlton Terrace, West Warwick, R. I. For authority to operate as a common carrier over irregular routes, transporting: Passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Kent County, R. I., and extending to points in Connecticut and Massachusetts.

No. MC 115445, filed July 6, 1955, G & W SCHOOL SERVICE, INC., 1714 East 17th St., Brooklyn 29, N. Y. Applicant's representative: William D. Traub, 60 East 42d St., New York 17, N. Y. For authority to operate as a common carrier over irregular routes, transporting: Passengers and their baggage in sea-

sonal, non-scheduled, door-to-door service, during the season of each year from May 15 to October 1, inclusive, and limited to the transportation of not more than six passengers in any one vehicle, excluding the driver, in special or charter operations, between New York, N. Y., and Camp Log Tavern, Pike County, Pa.

APPLICATIONS UNDER SECTION 5 AND 2108 (b)

MC-F 5923. Published in the March 2, 1955 issue of the FEDERAL REGISTER on page 1307. Supplemental application filed July 5, 1955 to show joinder of J. WRINGSBY as the person in control of RINGSBY TRUCK LINES, INC., which in turn controls the vendee corporation.

MC-F 6008. Published in the July 7, 1955 issue of the Federal Register on page 4837. Supplemental application filed July 5, 1955 to show Ben Jack Cage, Jack Cage Company, and ICT Corpora-

tion in control of vendee.

No. MC-F-6011. Authority sought for purchase by ILLINOIS-ROUAN TRANS-PORT CORPORATION, (ILL.), of 205 Old St. Louis Road, Wood River, Ill., of the operating rights and property of ILLINOIS-RUAN TRANSPORT COR-PORATION, (MO.) of 200 South Old St. Louis Road, Wood River, Ill., and for acquisition by JOHN RUAN, of 408 S. E. 30th St., Des Moines, Iowa, of control of the operating rights and property through the transaction. Applicants' attorney Homer E. Bradshaw, 510 Central National Bldg., Des Moines 9, Iowa. Operating rights sought to be transferred: Refined petroleum products, in bulk, as a common carrier over irregular routes, from Wood River, Ill., to St. Louis, Robertson, Troy, Perryville, and Silex, Mo., petroleum products, in bulk, in tank vehicles, from Wood River, Ill., to Valley Park, Ladue, and Chesterfield, Mo., and points in Missouri in the St. Louis Commercial Zone, as defined by the Commission. Vendee is not a motor carrier, but is affiliated with Ruan Transport Corporation, and General Express Ways. Inc., which are authorized to operate in Connecticut, Illinois, Indiana, Iowa, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, and Wisconsin. Application has not been filed for temporary authority under Section 210a (b)

No. MC-F 6017. Authority sought for purchase by WHITFIELD TRANSPOR-TATION, INC., 323 Canal Street, El Paso, Tex., of a portion of the operating rights of H-K TRUCK LINE COMPANY, 225 South Church St., Las Cruces, N. Mex., and for acquisition by W E. WHIT-FIELD, H. C. WHITFIELD, and M. E. WHITFIELD, Las Cruces, N. Mex., of control of said operating rights through the purchase. Person to whom correspondence is to be addressed: Arden D. Hull, 323 Canal Street, El Paso, Tex. Operating rights sought to be transferred: General commodities, with the usual exceptions, including household goods, as a common carrier over a regular route, between Las Cruces, N. Mex., and White Sands Proving Grounds, N. Mex., serving all intermediate points. Vendee is authorized to operate in Texas, New Mexico, Arizona, Utah, and Cali-

fornia. Application has not been filed for temporary authority under section 210a (b).

No. MC-F 6018. Authority sought for purchase by DOUGLAS TRUCKING LINES, INC., 1011 East Main Street, Owosso, Mich., of the operating rights and property of BRUMM TRANSIT, INC., 300 East Fourth Ave., Royal Oak, Mich. Applicants' attorney. Robert A. Sullivan, 2606 Guardian Building, Detroit 26, Mich. Operating rights sought to be transferred: General commodities, with the usual exceptions, including household goods, as a common carrier over a regular route, between Chicago, Ill., and Detroit, Mich., serving the mtermediate and off-route points of Ann Arbor and Kalamazoo, Mich., unrestricted, and those in the Chicago, III., Commercial Zone, restricted to traffic moving to or from Ann Arbor, Kalamazoo, and Detroit, Mich. Vendee is authorized to operate in Michigan, Illinois. and Indiana. Application has not been filed for temporary authority under section 210a (b)

MC-F 6019. Authority sought for purchase by JONES TRUCK LINES, INC., East Emma Ave., Springdale, Ark., of the operating rights of H. E. ENG-LISH, doing business as FORT WORTH-DALLAS EXPRESS, P. O. Box 3148, Dallas, Tex., and for acquisition by HARVEY JONES, Springdale, Ark., of control of said operating rights through the purchase. Applicants' attorneys: Lee Reeder or W E. Griffin, 1012 Baltimore Ave., Kansas City 5, Mo., and Reagan Sayers, Century Life Building, Fort Worth, Tex. Operating rights sought to be transferred: General commodities, with certain exceptions, not including household goods, as a common carrier, over regular routes, between Dallas and Forth Worth, Tex., serving the sites of the new army bomber assembly plant and anchorage and dock space near Fort Worth, as off-route points. Vendee is authorized to operate in Missouri, Arkansas, Oklahoma, Kansas, Tennessee, Illinois, and Texas. Application has not been filed for temporary authority under section 210a (b)

MC-F 6020. Authority sought for purchase by RUSSELL C. GILLILAND, MAURICE GILLILAND and RAYMOND J. GILLILAND, doing business as MICH-IGAN PRODUCE HAULERS Main St., Fremont, Mich., of the operating rights and property of H. E. JEN-SEN, 110 East Broadway, Scottville, Mich. Applicants' attorney Kit Clardy, 712 Olds Tower, Lansing, Mich. Operating rights sought to be transferred: Agricultural commodities, as a common carrier over regular and irregular routes, from points in Mason County, Mich., to Chicago, Ill., and feed, agricultural commodities, and empty fruit containers, on return, serving all intermediate points between Ludington and Muskegon, Mich., including Muskegon; agricultural commodities and household goods, over irregular routes, between Chicago, Ill., on the one hand, and, on the other, points in Mason, Lake, Osceola, Manistee, Wexford, Benzie, Grand Traverse, and Leelanau Counties, Mich., feed and fertilizer from points in the CHICAGO, ILL. COMMERCIAL ZONE to Michigan 5218 NOTICES

points; unmanufactured agricultural commodities, from points in Oceana County, Mich., to points in the CHI-CAGO, ILL., COMMERCIAL ZONE: and cheese and butter from Fountain, Mich., to Chicago, Ill., and salt, in truckloads, as a contract carrier over irregular routes, from Manistee, Mich., to points in Indiana and Illinois. Vendee is not a carrier, but Russell C. Gilliland and Maurice Gilliland, doing business as Gilliland Transfer Company, are authorized to operate as a common carrier in Michigan, Missouri, Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, New York, Kentucky, and West Virginia. Application has not been filed for temporary authority under section 210a (b)

MC-F 6021. Authority sought for control by JEWELL J. JOHNSON, WAR-REN A. McMINIMEE and HARRY ELLIOTT, Tillamook Building, Tillamook, Oreg., or the operating rights and property of FOX BROS., INC., Brookings, Oreg. Applicants' attorney. Norman E. Sutherland, 1100 Jackson Tower, Portland, Oreg. Operating rights sought to be controlled: Livestock, as a common carrier over irregular routes, from points in Coos and Curry Counties, Oreg., to points in California on and north of U. S. Highway 466; and between points in Coos, Curry, Jackson, Josephine and Klamath Counties, Oreg., and Del Norte, Humboldt, and Siskiyou Counties, Calif., hay, grain, feed, forest products, lumber, shingles, posts, and emigrant movables, between points in above-specified counties; machinery, between points in Coos and Curry Counties, Oreg., and Del Norte and Humboldt Counties, Calif., lumber and plywood, from Brookings, Oreg., to San Francisco, Santa Rosa, Oakland, Palo Alto, Pittsburg, Menlo Park, Fresno, Merced, Atwater and Santa Barbara, Calif., and lumber, from points in Curry County, Oreg., to points in Alameda, Los Angeles, Santa Clara, San Francisco, and San Mateo Counties, Calif., and to Bakersfield, Marysville, and San Diego, Calif. Applicants are not motor carriers, but Jewell J. Johnson is the controlling stockholder in Johnson Truck Service, Inc., Tillamook, Oreg., which is authorized to operate in Oregon and Washington. Application has not been filed for temporary authority under section 210a (b)

MC-F 6023. Authority sought for purchase by TENNESSEE COACH COM-PANY, a corporation, 710 Sevier Ave., Knoxville, Tenn., of a portion of the operating rights and property of YELLOW

COACH CORPORATION, 415 Sycamore St., Bristol, Va. Applicants' attorneys: Charles D. Snepp, 411 Fidelity Bank Bldg., Knoxville, Tenn., and H. H. Haynes, 26½ Sixth St., Bristol, Tenn. Operating rights sought to be transferred: Passengers, as a common carrier over regular routes, between Bristol, Va., and Blountville, Tenn., serving all intermediate points; between Bristol, Va.-Tenn., and the site of the Tennessee Eastman Corporation plant (near Kingsport, Tenn.) serving all intermediate points; between junction U.S. Highways 11-E and 19-E (about 1.5 miles south of Bluff City, Tenn.) and Elizabethton. Tenn., serving all intermediate points; and between junction U.S. Highway 11-E and Old Johnson City Highway (about 5 miles south of Bluff City, Tenn.). and Johnson City, Tenn., serving all intermediate points. Vendee is authorized to operate in West Virginia, Tennessee, Georgia, and Virginia, and to perform. charter operations, over irregular routes, restricted to traffic originating from points in Tennessee, Virginia, West Virginia, and Georgia, to points in the United States. Application has not been filed for temporary authortiy under section 210a (b)

By the Commission.

[SEAL] HAROLD D. McCoy, Secretary.

[F. R. Doc. 55-5864; Filed, July 19, 1955; 8:47 a.m.]

FOURTH-SECTION-APPLICATIONS FOR RELIEF

JULY 15, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

LONG-AND-SHORT-HAUL

FSA No. 30852: Cement concrete mix— Trident, Mont., to North Dakota. Filed by The Northern Pacific Railway Company Agent, for interested rail carriers. Rates on cement and dry ready-mix concrete, carloads, from Trident, Mont., to points in North Dakota.

Grounds for relief: Circuitous routes. Tariff: Supplement 4 to Northern Pacific Railroad tariff I. C. C. 9862.

FSA No. 30853: Liquefied petroleum gas in central territory. Filed by H. R.

Hinsch, Agent, for interested rail carriers. Rates on liquefied petroleum gas, tank-carloads, from specified points in Illinois, Indiana and Kentucky, Michigan, Ohio, Pennsylvania and West Virginia to specified points in central territory as described in the application.

Grounds for relief: Short-line distance scale, truck competition and circuity. Tariff: Supplement 84 to Agent

Hinsch's I. C. C. 4446.

FSA No. 30854. Grain—Colbort, Ga., to Mobile, Ala., and New Orleans, La. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on barley, corn, oats, rye, soybeans or wheat, in bulk, carloads, from Colbert, Ga., to Mobile, Ala., and New Orleans, La., for export.

Grounds for relief: Circuitous routes. Tariff: Supplement 94 to Agent Spaninger's I. C. C. 1325.

FSA No. 30855: Proportional rates—Grain and Grain Products to Florida, Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on grain and grain products, carloads, from St. Louis, Mo., East St. Louis and Cairo, Ill., and Memphis, Tenn., for beyond to Miami, Fla., group also Ft. Lauderdale and West Palm Beach, Fla.

Grounds for relief: Water carrier and truck competition, including water competition from foreign countries, and circuity.

Tariff: Supplement 94 to Agent Spaninger's I. C. C. 1325.

FSA No. 30856. Tall oil from the southwest to Goodyear, Miss. Filed by F C. Kratzmerr, Agent, for interested rail carriers. Rates on tall oil, carloads, from specified points in Arkansas, Louisiana, and Texas to Goodyear, Miss.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 69 to Agent Kratzmeir's I. C. C. 4139 and two other tariffs.

FSA No. 30857 Substituted service—Motor rail rates in the east. Flied by The New York, New Haven and Hartford Railroad Company, and Mid-States Freight Line, Inc. Rates on semitrailers, loaded with various commodities or empty, on railroad flat cars, between Boston, Mass., on one hand, and Harlem River, N. Y., on the other.

Harlem River, N. Y., on the other.
Grounds for relief: Competition with motor carriers.

By the Commission.

[SEAL] HAROLD D. McCoy, Secretary.

[F. R. Doc. 55-5866; Filed, July 19, 1955; 8:48 a. m.]